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असाधारण

EXTRAORDINARY

भाग II — खण्ड 2

PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 22nd December, 2011:—

BILL NO. LIX OF 2011

A Bill to consolidate the law in certain disciplines of health sector and promote human resources in health sector and provide for mechanism for the determination, maintenance, coordination and regulation of standards of health education throughout the country to ensure adequate availability of human resources in all States and for the said purpose to establish the National Commission for Human Resources for Health and to supervise and regulate professional Councils in various disciplines of health sector and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the National Commission for Human Resources for Health Act, 2011.

Short title,
extent and
commencement.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act and any reference in any provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

- (a) “appropriate statutory regulatory body” means the University Grants Commission established under the University Grants Commission Act, 1956, the All India Council for Technical Education established under the All India Council for Technical Education Act, 1987, the National Council for Teacher Education established under the National Council for Teacher Education Act, 1993 or any other corresponding statutory regulatory body by whatever name called regulating the higher education under any law for the time being in force; 3 of 1956.
52 of 1987.
73 of 1993.
- (b) “approved course” means a course recognised and approved by the National Board for Health Education under this Act;
- (c) “approved institution” means a medical college, hospital, health centre or such other institution recognised by a university as an institution in which a person may undergo the training, if any, required by his course of study for the award of any recognised qualification to him;
- (d) “Board” means the National Board for Health Education constituted under section 23;
- (e) “Chairperson” means the Chairperson of the Commission, appointed under section 3;
- (f) “code of ethics” includes integrity, objectivity, professional competence, professional conduct, avoidance of conflict of interest, transparency and information disclosure and such other ethical principles as may be specified by the regulations made by the National Council;
- (g) “Commission” means the National Commission for Human Resources for Health established under section 3;
- (h) “Committee” means the National Evaluation and Assessment Committee constituted under section 34;
- (i) “corresponding new National Council” in relation to an existing Council means the body corporate specified against such Council in column (2) of the First Schedule;
- (j) “diploma” means such award, not being a degree, granted by a health educational institution certifying that the recipient has successfully completed a course of study of not less than nine months duration;
- (k) “discipline of health” includes medicine, dental, nursing, pharmacy, paramedical or any other discipline as the Central Government may notify in this behalf;
- (l) “distance education” means the distance education system as defined in clause (e) of section 2 of the Indira Gandhi National Open University Act, 1985; 50 of 1985.
- (m) “evaluation and assessment” with its grammatical variations means the process of quality control and assurance in health education, whereby, as a result of inspection or assessment, or both of the health educational institution and the hospital affiliated thereto or any programme conducted in such institution is recognised as conforming parameters of academic quality and benchmarking of such academic quality determined by the appropriate statutory regulatory authority;
- (n) “evaluation and assessment agency” means an agency recommended by the Commission under section 37;
- (o) “existing Council” means the councils specified in column (1) of the First Schedule;
- (p) “foreign health educational institution” means an institution imparting health education situated outside India;
- (q) “foreign qualifications” means the recognised qualification obtained from any university or institution situated outside India;

(r) "health educational institution" or "health institution" means an institution of learning including a university, an institution deemed to be university, a college, an institute, an institution of national importance declared as such by an Act of Parliament, or a constituent unit of such institution, which is imparting education in the discipline of health (whether through conduct of regular classes or distance education system) beyond twelve years of schooling leading to the award of a degree or diploma;

(s) "health professional" means any person possessing the recognised qualification who is eligible to be enrolled in the National Register or the State Register in any of the discipline of health and the expression "health practitioner" shall be construed accordingly;

(t) "medical practitioner" or "medical professional" means a person who holds a qualification granted by an authority notified under section 3 of the Indian Medical Degrees Act, 1916 or recognised qualification under this Act and has enrolled himself as a medical practitioner under this Act;

(u) "medicine" means modern scientific medicine in all its branches and includes surgery and obstetrics, but does not include veterinary medicine and surgery;

(v) "Member" means a Member of the Commission and includes Chairperson;

(w) "National Council" means the Medical Council of India or the Dental Council of India or the Nursing Council of India or the Pharmacy Council of India constituted under sub-section (1), or the Paramedical Council of India, as the case may be, constituted under sub-section (2), of section 41;

(x) "National Register" means the National Register maintained under section 58 and shall include—

(i) the Indian Dentistry Register maintained by the Dental Council of India;

(ii) the Indian Medical Register maintained by the Medical Council of India;

(iii) the Indian Nursing Register maintained by the Nursing Council of India;

(iv) the Indian Pharmacy Register maintained by the Pharmacy Council of India;

(v) the Register of Paramedics maintained by the Paramedical Council of India;

(y) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(z) "overseas Citizen of India" means such person registered as an overseas citizen of India under section 7A of the Indian Citizenship Act, 1955;

(za) "prescribed" means prescribed by rules made by the Central Government under this Act;

(zb) "programme" means a course or programme of study leading to the award of a degree or diploma in a health educational institution;

(zc) "recognised qualification",—

(a) in relation to medicine, means the qualification included in the Second Schedule;

(b) in relation to dentistry, means the qualification included in the Third Schedule;

(c) in relation to nursing, means the qualification included in the Fourth Schedule;

(d) in relation to pharmacy, means the qualification included in the Fifth Schedule; and

(e) in relation to paramedics, means the qualification included in the Sixth Schedule;

7 of 1916.

57 of 1955.

- (zd) "regulations" means regulations made under this Act;
- (ze) "Schedule" means a Schedule appended to this Act;
- (zf) "screening test" means a mandatory qualifying examination for the purpose of recognition of foreign qualifications under section 33;
- (zg) "State Council" means the State Council constituted under section 53 or under any other law for the time being in force;
- (zh) "State register" means the State register maintained under this Act or any other law for the time being in force in any State regulating the registration of practitioners in the discipline of health;
- (zi) "trained specialist" means a medical professional possessing a masters degree and clinical training in the specific area;
- (zj) "university" means any university recognised as such by the University Grants Commission or any university or institute established by law for the time being in force imparting education in the discipline of health for the award of degree or diploma as a recognised qualification.

CHAPTER II

NATIONAL COMMISSION FOR HUMAN RESOURCES FOR HEALTH

Establishment
of Commis-
sion.

3. (1) The Central Government shall, by notification, establish a body to be called the National Commission for Human Resources for Health to exercise the powers conferred on, and to perform the functions assigned to, it under this Act.

(2) The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(3) The Commission shall consist of—

- (a) a Chairperson;
- (b) four whole-time members; and
- (c) eight part-time members.

to be appointed, by the Central Government, on the recommendations of the Selection Committee constituted under section 5.

(4) The president of the National Board for Health Education referred to in sub-section (1) of section 24, the president of the National Evaluation and Assessment Committee referred to in sub-section (1) of section 35, the president of the each National Council referred to in sub-sections (1) and (2) of section 41 and the Chairperson or a Member of the National Commission for Higher Education and Research referred to in section 5 of the National Commission for Higher Education and Research Act, 2011—Members, *ex officio*.

(5) All the Members including *ex officio* Members shall have voting rights.

Qualification
for
appointment
of
Chairperson
and Members
of the
Commission.

4. (1) The Chairperson shall be a person of eminence, integrity, administrative capability and outstanding ability with a post graduate degree in the discipline of medical science from a university, and having not less than twenty-five years experience in the profession, out of which at least fifteen years shall be in a leadership role, in the area of health care delivery, growth and development of modern medicine or medical education.

(2) The other Members shall be persons of eminence, integrity, administrative capability and outstanding ability with a post graduate degree in the discipline of medical education, dental education, nursing education, pharmacy education, public health, management, science and technology, or law from a university, and having not less than twenty years experience in the profession, out of which at least fifteen years shall be in a leadership role, in the area of health care delivery, growth and development of modern medicine or medical education:

Provided that out of twelve Members,—

- (a) four whole-time Members shall be appointed by the Central Government from the disciplines of medicine, dentistry, nursing, pharmacy, paramedics; and

(b) eight part-time Members shall be appointed from the disciplines of medicine, dentistry, nursing, pharmacy, paramedics, management, science and technology and law.

(3) No person, who is not a citizen of India, shall be eligible to be appointed as the Chairperson or a Member.

5. (1) The Central Government shall constitute a Selection Committee consisting of,—

Selection
Committee.

(a) a person of eminence having qualification and experience of at least twenty-five years in medical profession as Chairperson;

(b) five other experts of eminence from the discipline of medical and allied health sciences, management, science and technology having qualification and experience of at least twenty years in the discipline, as members,

to be appointed in such manner as may be prescribed.

(2) The Secretary to the Government of India in charge of the Union Ministry of Health (Department of Health and Family Welfare) shall be the Convenor.

(3) The term of the Selection Committee shall be such as may be prescribed.

(4) The Selection Committee shall finalise the selection of the Chairperson and Members of the Commission within two months from the date on which the reference is made to it by the Central Government in this behalf.

(5) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(6) Before recommending any person for appointment as a Chairperson or a Member of the Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other conflict of interest, which is likely to affect prejudicially his functions as Chairperson or Member, as the case may be.

(7) No appointment of the Chairperson or Member of the Commission shall be invalid merely by reason of any vacancy in the Selection Committee.

(8) Subject to the provisions of sub-sections (1) to (7), the Selection Committee may regulate its own procedure.

(9) The Central Government shall initiate the process of appointment in respect of any vacancy due to arise in the office of the Chairperson or of other Members of the Commission, six months prior to the date of arising of such vacancy:

Provided that in case a vacancy arises in the Selection Committee for the reason of death or removal, or resignation from office, such vacancy shall be filled expeditiously, within six months from the date on which the vacancy has arisen.

6. (1) A person appointed as the Chairperson or a Member of the Commission shall hold office for a term of four years from the date on which he enters upon his office and be eligible for reappointment for another term:

Tenure and
terms and
conditions of
service of
Chairperson
and Members.

Provided that a person shall not hold office as a Chairperson or Member after he has attained the age of seventy years.

(2) Notwithstanding anything in sub-section (1), the Chairperson and other Members shall hold office during the pleasure of the Central Government.

(3) The salary and allowances payable to and other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed.

7. The Chairperson and other Members, shall immediately after entering office and every year thereafter, make a declaration to the extent of their interest, whether direct or indirect and whether financial or otherwise, in any health institution or any other institution

Declaration
of interest.

which comes under the purview of the Commission and the same shall be displayed on the website of the Commission.

Restrictions
on re-
employment.

8. (1) The Chairperson and other Members, on ceasing to hold office shall not, for a period of two years, accept any employment (including as consultant or expert or otherwise) in any health educational institution whose matter has been dealt with by such Chairperson or Member, as the case may be, or has been before the Commission when he held office as such Chairperson or Member.

(2) Nothing in sub-section (1) shall prevent the Chairperson or a Member, as the case may be, to accept any employment in any health educational institution controlled or maintained by the Central Government or the State Government.

General
superintendence,
direction and
management
of affairs.

9. Subject to the other provisions of this Act, the general superintendence, direction and control of the administration shall vest in the Chairperson.

Member to
act as
Chairperson,
or to
discharge his
functions, in
certain
circumstances.

10. (1) In the event of the occurrence of any vacancy in the office of the Chairperson by reason of death, removal, suspension or resignation, the seniormost whole-time Member shall act as the Chairperson till such time the Chairperson is appointed, to fill the vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on account of leave or otherwise, the seniormost whole-time Member shall discharge the functions of the Chairperson till the Chairperson is able to discharge his functions.

Resignation.

11. The Chairperson or a Member may, by notice given in writing under his hand of not less than a period of thirty days, addressed to the Central Government, resign from his office:

Provided that the Chairperson or the Member shall, unless permitted by the Central Government to relinquish office sooner, continue to hold office until the expiry of a period of thirty days from the date of receipt of such notice or until a person duly appointed as his successor enters upon office or until the expiry of his term of office, whichever is earliest.

Removal and
suspension of
Chairperson
or Member
from office in
certain
circumstances.

12. (1) The Central Government may, by order, remove from office the Chairperson or any Member, who—

(a) has been adjudged an insolvent; or

(b) being a whole-time Member, has engaged at any time, during his term of office, in any paid employment; or

(c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or

(d) has become physically or mentally incapable of acting as such Chairperson or other Member; or

(e) is of unsound mind and stands so declared by a competent court; or

(f) has been removed or dismissed from the service or office of the Central Government or of a State Government or from a body owned or controlled by the Central Government or a State Government or from any Central or State statutory body; or

(g) has acquired such financial or other interest as is likely to affect prejudicially his functions as Chairperson or other Member, as the case may be; or

(h) has so abused his position as to render his continuance in office prejudicial to public interest; or

(i) has been guilty of proved misconduct; or

(j) has been guilty of proved conflict of interest in the discharge of his functions.

(2) The Chairperson or any Member shall not be removed from his office under clause (g) or clause (h) of sub-section (1), unless he has been given a reasonable opportunity of being heard in the matter:

Provided that the Central Government may, if it considers necessary in the public interest, suspend such Chairperson or other Member.

13. (1) The Commission shall meet at least twice every month at such time and place as it may appoint.

Meetings of
Commission.

(2) The Chairperson shall preside over the meetings of the Commission.

(3) The decisions of the Commission shall be by consensus, failing which by a majority of votes of Members present and voting and in the event of equality of votes, the Chairperson or in his absence, the Member presiding shall have a second or casting vote.

(4) The quorum of a meeting of the Commission shall be seven members.

(5) Subject to the provisions of this section, the Commission may make regulations for the conduct of business at its meetings.

14. No act or proceeding of the Commission shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Commission; or
 - (b) any defect in the appointment of a person as a Member of the Commission;
- or

Vacancies,
etc., not to
invalidate
proceedings
of
Commission.

- (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

15. (1) There shall be a Chief Executive Officer of the Commission, not below the rank of Additional Secretary to the Government of India, who shall be the Member-Secretary of the Commission, to be appointed by the Central Government for a fixed term of four years who shall not be eligible for reappointment.

Chief
Executive
Officer and
other officers
and employ-
ees of
Commission.

(2) The Chief Executive Officer shall discharge such functions as may be specified by regulations made by the Commission or may be assigned to him by the Commission from time to time.

(3) The Chief Executive Officer shall report to the Commission, through the Chairperson, on actions taken by him in performance of his duties.

(4) The Commission may, with the prior approval of the Central Government, appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under this Act.

(5) The salaries and allowances and other terms and conditions of service of the Chief Executive Officer and other officers and employees of the Commission shall be such as may be prescribed.

16. (1) The Commission shall, subject to the provisions of this Act, take measures to determine, maintain and coordinate the minimum standards of and promote the human resources, in discipline of health education and training commensurate with the requirement, of such resources in different States and Union territories.

Powers and
functions of
Commission.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to in sub-section (1) may provide for all or any of the following matters, namely:—

- (a) carry out studies and collect data required to assess the needs and requirements of human resources for health in different States and Union territories;
- (b) assess the requirement (including the number, type and geographical location) of health training facilities for education and training in medical and allied discipline;

(c) formulate action plans for development of human resources for health in accordance with the policy and priorities laid down by the Central Government from time to time;

(d) formulate a plan for financial and other resources required for creation of human resources;

(e) make recommendations on the measures to strengthen the healthcare delivery, operational efficiency and healthcare infrastructure;

(f) coordinate existing healthcare infrastructure in Central and State Government for effective utilisation thereof;

(g) facilitate coordination among bodies or National Councils constituted under this Act, conduct or cause to conduct their social audit and obtain public feedback on their performance and achievements;

(h) grant permission for establishing of health educational institution, ensure compliance of its terms and conditions, or withdraw such permission;

(i) regulate, in accordance with the law, for the time being in force, the entry and operation of foreign health educational institutions if permitted under the law for the time being in force in consultation with the Board or such other authority as may be specified by the Central Government;

(j) conduct the elections to the National Councils established under this Act;

(k) promote and regulate inter-professional cooperation amongst health professions;

(l) specify by regulations the continuous medical education and the courses, workshops and training activities;

(m) provide such grants and moneys to the Board, Committee and National Council as they may require for efficient discharge of their powers and functions under this Act;

(n) transfer such assets, properties or liabilities to the Board, Committee or National Council, as the case may be, as it may consider necessary;

(o) provide such officers and other employees to the Board, Committee or National Council, as the case may be, required for efficient discharge of their powers and functions under this Act;

(p) perform such other functions as may be prescribed.

(3) The Commission shall exercise the powers and discharge the functions under this section in such manner which does not interfere with the autonomous and self-regulatory nature of universities or institutions.

Establishment
of institution
for imparting
health
education or
new course of
study.

17. (1) Notwithstanding anything contained in this Act or any other law for the time being in force,—

(a) no person shall, without obtaining letter of permission from the Commission, establish an institution for a course of study or training in the discipline of health (including a postgraduate or doctoral or post doctoral or super speciality course of study or training), for grant of recognised qualification; and

(b) no institution, which has been granted permission under sub-section (1), shall increase its admission capacity in any course of study or training (including a

post graduate or doctoral or post doctoral or super speciality course of study or training), without obtaining the letter of permission from the Commission:

Provided that any person who has been granted permission for establishment of the health educational institution or an institution which has been granted permission to increase of its admission capacity in course of study or training under the provisions of the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956 and the rules and regulations made thereunder, or any other law for the time being in force, shall be deemed to be the health educational institution established under the provisions of this Act or deemed to have validly increased their admission capacity and the qualifications granted by such institutions shall be the recognised qualification for the purposes of this Act.

48 of 1947.

8 of 1948.

16 of 1948.

102 of 1956.

(2) Every person shall, for the purpose of obtaining permission under sub-section (1), submit to the Commission a scheme in accordance with the provisions of sub-section (3) and the Commission shall refer the scheme to the National Evaluation and Assessment Committee for its recommendations.

(3) The scheme referred to in sub-section (2) shall be in such form and contain such particulars and be preferred in such manner and accompanied with such fees as may be specified by regulations made by the Commission.

(4) On receipt of the scheme under sub-section (2), the Committee may obtain such other particulars from the applicant as it may consider necessary and thereafter, Committee may,—

(a) if the scheme is defective and does not contain any required particulars, give a reasonable opportunity to the person concerned for making a written representation and it shall be open to such person to rectify the defects, if any, specified by it;

(b) consider the scheme, having regard to the factors referred to in sub-section (8), and submit the scheme together with its recommendations thereon to the Commission.

(5) The Commission may, after considering the scheme and the recommendations of the Committee under sub-section (4) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the applicant, and having regard to the factors referred to in sub-section (8), by an order either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-section (1):

Provided that no scheme shall be disapproved by the Commission under this sub-section without giving such person a reasonable opportunity of being heard:

Provided further that nothing in this sub-section shall prevent any person, whose scheme has not been approved by the Commission, to submit a fresh scheme and the provisions of this section shall apply to such scheme, as if such scheme has been submitted for the first time under sub-section (2).

(6) Where no order passed by the Commission has been communicated to the person submitting the scheme, within a period of one year from the date of submission of such scheme to the Commission under sub-section (2), the scheme shall be deemed to have been approved by the Commission in the form in which it had been submitted, and, accordingly, the permission of the Commission required under sub-section (1) shall also be deemed to have been granted.

(7) In computing the period specified in sub-section (6), the time taken by the person concerned submitting the scheme, in furnishing any particulars called for by the Committee or by the Commission, shall be excluded.

(8) The Committee, while making its recommendations under clause (b) of sub-section (4) and the Commission, while passing an order, either approving or disapproving

the scheme under sub-section (5), shall have due regard to the following factors, namely:—

(a) whether the proposed health educational institution or the existing health educational institution seeking to open a new or higher course of study or training or increase its admission capacity, would be in a position to offer the course of study or training in the discipline of health (including a post graduate or doctoral or post doctoral or super speciality course of study or training) with the minimum standards of health education as specified by the Board under this Act;

(b) whether the person seeking to establish a health educational institution or seeking to open a new or higher course of study or training or to increase its admission-capacity has adequate financial resources;

(c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the health educational institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time limit specified in the scheme;

(d) whether adequate hospital facilities, having regard to the number of students likely to attend such health educational institution or course of study or training or as a result of the increased admission capacity have been provided or would be provided within the time limit specified in the scheme;

(e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such health educational institution or course of study or training by person having the recognised medical qualifications;

(f) the requirement of manpower in the field of practice of medicine; and

(g) any other factors as may be prescribed.

(9) Where the Commission passes an order either approving or disapproving a scheme under this section, a copy of the order shall be delivered to the person concerned.

Explanation.— For the purposes of this section, “person” includes any university or a trust or other body corporate, but does not include the Central Government or a State Government.

Recognition
of qualifica-
tions granted
by health
educational
institutions in
India.

18. (1) The educational qualifications granted by any health educational institution in India which are included in the Second Schedule or the Third Schedule or the Fourth Schedule or the Fifth Schedule or the Sixth Schedule, as the case may be, shall be recognised qualifications of the respective discipline of health for the purposes of this Act:

Provided that any qualification recognised under the provisions of the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956 and the rules and regulations made thereunder, shall continue to be the recognised qualifications of the respective discipline of health for the purposes of this Act, unless such qualifications are derecognised by the amendment of the relevant Schedule under this Act.

48 of 1947.
8 of 1948.
16 of 1948.
102 of 1956.

(2) Any health educational institution in India, which grants any qualification in the discipline of health not included in the Second Schedule or the Third Schedule or the Fourth Schedule or the Fifth Schedule or Sixth Schedule, as the case may be, may apply to the Commission to have such qualification recognised, and the Commission, after consulting the Committee, may recommend to the Central Government to amend the Second Schedule or the Third Schedule or the Fourth Schedule or the Fifth Schedule or Sixth Schedule, as the case may be, so as to include such qualification therein and any notification amending any of the said Schedules may also direct that an entry shall be made in the last column of the Second Schedule or Third Schedule or the Fourth Schedule or the Fifth Schedule or the Sixth Schedule, as the case may be, against such qualification declaring that it shall be a recognised qualification only when granted after a specified date.

19. (1) No qualification granted by any health educational institution to any student of such institution shall be recognised qualification for the purposes of this Act, unless such institution has been established with the approval of the Commission in accordance with the provisions of this Act or rules or regulations made thereunder.

Non-recognition of qualifications in certain cases.

(2) Where any health educational institution offers a new or higher course of study or training (including a post graduate or doctoral or post doctoral or super speciality course of study or training), such qualification shall not be a recognised qualification for the purposes of this Act, unless such course of study or training offered has been approved by the Commission before offering the same to the students.

(3) Where any health educational institution increases its admission capacity in any course of study or training (including a post graduate or doctoral or post doctoral or super speciality course of study or training), such qualification granted to any student by such institution on the basis of the increase in its admission capacity shall not be a recognised qualification for the purposes of this Act, unless such increase in its admission capacity in any course of study or training offered has been approved by the Commission before offering the same to the students.

20. The Commission shall regulate the entry and operation of foreign health educational institutions in consultation with the Board and in accordance with the law, for the time being in force:

Entry and operation of foreign health educational institutions.

Provided that in case no such law is in force, the Central Government shall regulate the entry and operation of foreign health institutions in consultation with the Board till such law comes into force.

21. When, upon recommendation of the Committee or the Board, it appears to the Commission that—

Withdrawal of recognition.

(a) the courses of study and examination to be undergone in, or the proficiency required from candidates at any examination held by any university or other health institution for an approved course in health education; or

(b) the faculty, staff, equipment, accommodation, training and other facilities for instruction and training provided in such university or other health educational institution, or in any college or other institution affiliated to any such university,

do not conform to the standards specified by the Commission, the Commission may, after making such inquiry as it may consider necessary, for reasons to be recorded in writing, withdraw recognition of the course or qualification in respect of the university or other health institution, or college or other institution affiliated to such university, as the case may be, with such cut-off date as it thinks fit:

Provided that no such recognition shall be withdrawn unless the university or the institution or college, as the case may be, has been given a reasonable opportunity of being heard.

22. The Commission may levy such fees and other charges in respect of such functions as may be specified by regulations made by it.

Fees.

CHAPTER III

NATIONAL BOARD FOR HEALTH EDUCATION

23. The Central Government shall, by notification, constitute a Board to be known as the "National Board for Health Education" to assist the Commission in discharge of its powers and functions for the purposes of health education.

National Board for Health Education.

24. (1) The Board shall consist of—

Composition of Board.

(a) a President;

(b) two whole-time members; and

(c) four part-time members,

to be appointed by the Central Government on the recommendation of the Selection Committee constituted under section 25.

(2) The Chairperson or a Member of the National Commission for Higher Education and Research referred to in section 5 of the National Commission for Higher Education and Research Act, 2011—Member, *ex officio*.

(3) The President and whole-time members shall be chosen from the persons possessing a post graduate degree in the discipline of medicine or medical education from a recognised university or health institutions, having at least fifteen years of standing in the profession or teaching and training, out of which seven years of experience shall be in the discipline of medical education, training, curriculum design or development and conduct of examinations.

(4) The part-time members shall be chosen from persons possessing a post graduate degree in the discipline of medical education from a recognised university or medical institution having at least twelve years of standing in the profession from the discipline of health or health education out of which seven years of experience shall be in education, training, curriculum design or development and conduct of examinations in the discipline of health.

Selection
Committee
for selection
of President
and members
of Board and
Committee.

25. (1) The Central Government shall constitute a Selection Committee for appointment of the President and members of the Board and the Committee, consisting of,—

(a) a person of eminence having qualification and experience of at least twenty years in medical profession as Chairperson;

(b) three other experts of eminence from the discipline of medical and allied health sciences, management, science and technology having qualification and experience of at least fifteen years in the discipline, as members,

to be appointed in such manner as may be prescribed.

(2) The Secretary to the Government of India in charge of the Union Ministry of Health (Department of Health and Family Welfare) shall be *ex officio* member of the Selection Committee.

(3) The Chairperson of the Commission shall be the Convenor.

(4) The term of the Selection Committee shall be such as may be prescribed.

(5) The Selection Committee shall finalise the selection of the President and members of the Board and the Committee within two months from the date on which the reference is made to it by the Central Government in this behalf.

(6) The Selection Committee shall recommend a panel of two names for every vacancy referred to it.

(7) Before recommending any person for appointment as a President or a member of the Board or the Committee, the Selection Committee shall satisfy itself that such person does not have any financial or other conflict of interest, which is likely to affect prejudicially his functions as President or member of the Board or the Committee, as the case may be.

(8) No appointment of the President or member of the Board or the Committee shall be invalid merely by reason of any vacancy in the Selection Committee.

(9) Subject to the provisions of sub-sections (1) to (8), the Selection Committee may regulate its own procedure.

(10) The Central Government shall initiate the process of appointment in respect of any vacancy due to arise in the office of the President or of other members of the Board or Committee, six months prior to the date of arising of such vacancy:

Provided that in case a vacancy arises in the Selection Committee for the reason of death or removal, or resignation from office, such vacancy shall be filled expeditiously, within six months from the date on which the vacancy has arisen.

26. On and from the date of constitution of the Board,—

Transitory
provision
relating to
Board.

21 of 1860.

(a) the National Board of Examinations registered under the Societies Registration Act, 1860 shall be dissolved;

(b) any reference to the existing National Board of Examinations in any law other than this Act or in any contract or other instrument shall be deemed as a reference to the Board;

(c) all properties and assets, movable and immovable, of, or belonging to, the existing National Board of Examinations, shall vest in the Board;

(d) all rights and liabilities of the existing National Board of Examinations shall be transferred to, and be the rights and liabilities of, the Board;

(e) without prejudice to the provisions of clause (c), all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing National Board of Examinations immediately before that date, for or in connection with the purpose of the said existing National Board of Examinations shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Board;

(f) all sums of money due to the existing National Board of Examinations immediately before that date shall be deemed to be due to the Board; and

(g) all suits and other legal proceedings instituted or which could have been instituted by or against the existing National Board of Examinations immediately before that date may be continued or may be instituted by or against the Board.

27. (1) A person appointed as the President or a member shall hold office for a term of four years from the date on which he enters upon his office or till the date he attains the age of seventy years, whichever is earlier and be eligible for re appointment for another term.

Appointment
and terms and
conditions of
office of
President and
members of
Board.

(2) Notwithstanding anything in sub-section (1), the President or a member shall hold office during the pleasure of the Central Government.

(3) The salary and allowances payable to and other terms and conditions of service of the President and other members shall be such as may be prescribed.

28. (1) The Board shall appoint an Executive Director to perform such functions as may be assigned to it by the Board.

Executive
Director and
other officers
and
employees of
Board.

(2) The Board may with the previous approval of the Commission appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(3) The term of the Executive Director shall be four years from the date of his appointment.

(4) The salaries and allowances payable to, and the other terms and conditions of service of the other officers and employees of the Board shall be such as may be specified by regulations made by the Commission.

29. (1) The Board shall meet at least once in every month.

Meetings of
Board.

(2) Four members of the Board shall constitute a quorum for the meetings.

(3) Every meeting of the Board shall be presided over by the President or, if for any reason he is unable to attend, such other member as may be chosen by the members present at the meeting from among themselves.

(4) A member shall be deemed to have vacated his seat if he is absent, without permission, and without sufficient cause in the opinion of the Board, from three consecutive meetings of the Board.

(5) Subject to the provisions of the foregoing sub-sections, the Board may regulate its own procedure for the transaction of business at its meeting.

Functions of
Board.

30. (1) The Board shall take measures to facilitate and promote academic studies and research in emerging areas of health education with focus on professional health education and to ensure uniform augmentation of trained specialists and super specialists, to achieve excellence in these and connected areas.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to in sub-section (1) may provide for all or any of the following matters, namely:—

- (a) determine, coordinate and maintain standards for health education and research;
- (b) specify minimum requirements for faculty, infrastructure and clinical workload for establishment of institutions for discipline of health;
- (c) specify curriculum for examinations which may be conducted under this Act;
- (d) design and approve new courses of study as recommended by institutes, hospitals, colleges or universities for imparting training and conducting courses therein;
- (e) organise seminars, trainings or conferences for continuous medical education and such other courses, workshops or programme as may be specified by regulations made by the Commission;
- (f) to undertake faculty development programmes;
- (g) specify schedule of admissions for admission to various courses of study;
- (h) specify calendar of examinations and scheme of examinations;
- (i) conduct examinations for entry to any under graduate, post graduate, doctoral, post doctoral, super speciality or diploma courses, fellowship examination and screening test;
- (j) take such steps as may be desirable to elevate the standards of training and development of quality health professionals;
- (k) coordinate with institutes, universities, bodies at international level for discharge of its functions;
- (l) advise the Commission regarding establishment of laboratories, institutes and training centres for continuous medical education;
- (m) recognise and encourage merit in all branches of health sciences, technology and basic sciences and foster research;
- (n) coordinate between medical and other scientific academies, societies, associations, institutions and Government medical and scientific departments and services;
- (o) publish journals, memoirs, transactions and other publications;
- (p) promote and maintain a liaison between health and other sciences;
- (q) appoint such number of visitors as it may consider fit to visit any university or other health educational institution imparting a recognised course in discipline of health, or to attend any examination held by any such university or other health educational institution for the purposes of granting recognition thereof;
- (r) to specify parameters for equivalence between academic qualifications granted by different health institutions in the discipline of health whether in India or abroad;
- (s) to specify norms and mechanisms for transparent, efficient and accountable governance in a health university or higher health educational institution empowered by or under any law to award recognised qualifications only in the discipline of health education and research;

(t) to approve and notify norms and standards of maintenance of academic quality for accreditation and benchmarking of education in recognised health educational institutions imparting approved courses in the discipline of health throughout the period of accreditation:

Provided that nothing contained in this clause shall prevent the National Commission for Higher Education and Research established under the National Commission for Higher Education and Research Act, 2011 to specify higher standards for health educational institutions other than those specified by the appropriate statutory regulatory body referred to in clause (e) of sub-section (f) of section 3 of the National Commission for Higher Education and Research Act, 2011;

(u) to prescribe norms for compulsory disclosure by health educational institutions engaging in discipline of health education on all aspects related to their functioning that has a bearing on the interests of students, faculty, parents, the community and the Government;

(v) promote autonomy of health educational institutions for the free pursuit of knowledge and innovation;

(w) facilitate access, inclusion and opportunities to all;

(x) promote development of a curricular framework with specific reference to new or emerging or inter-disciplinary field of knowledge;

(y) promote, through the development of a flexible academic frame, the exercise of choice for students for self-development, entrepreneurship, acquisition of skills and pursuit of learning;

(z) promote joint and cross-disciplinary programmes among universities and other health educational institutions;

(za) develop measures to effectively connect health education to the needs of society;

(zb) encourage universities to enable colleges to evolve into health institutions with powers to award degrees;

(zc) take measures to enhance access to, and inclusion in, health education to remove regional imbalances in the provision of health educational institutions for such education as well as in access of students to such health educational institutions;

(zd) advice the Commission and the Central Government on any matter that may be referred;

(ze) discharge such other functions as may be prescribed.

31. The Board may, in consultation with the concerned State Government and university, conduct, with effect from such date as may be notified by the Central Government, either by itself or by an authority authorised by it, examinations for entry to any under graduate, post graduate, doctoral, post doctoral, super speciality or diploma courses or examination for fellowship in such manner as may be specified by regulations made by the Commission.

Power to conduct certain examination.

32. Every health educational institution which grants any recognised qualification shall furnish such information as to courses of study and examinations as the Board may require from time to time.

Power to require information as to courses of study and examinations.

33. (f) No person, being a citizen of India or a registered Overseas citizen of India, who obtains the recognised qualification granted by medical institution in any country outside India recognised for enrolment as medical practitioner in that country shall be entitled for enrolment by the National Council or the State Council, as the case may be, unless he qualifies the screening test in India to be conducted by the Board.

Screening test.

(2) No person being a citizen of India shall, after the commencement of this Act, obtain any medical qualification from any medical institution in a country outside India without obtaining an eligibility certificate from the Board and any person, who obtains such qualification without obtaining the eligibility certificate, shall not be eligible to appear in the screening test referred to in sub-section (1):

Provided that any person being a citizen of India who acquired the recognised qualification or obtained admission in the medical institution outside India during the period between 15th March, 2002 and the date of commencement of this Act, after obtaining an eligibility certificate from the Medical Council of India under the Indian Medical Council Act, 1956, shall, subject to other provisions of this Act, be eligible to be enrolled in the National Register or State Register.

102 of
1956.

(3) Any person, being a citizen of India or a registered Overseas citizen of India, who obtains a recognised qualification in the discipline of health other than medicine from any health educational institution in any country outside India recognised for enrolment as practitioner in that country shall not be entitled to be enrolled in the National Register or State Register unless he qualifies the screening test in India.

(4) The Commission may, by notification, exempt any person, who possesses the recognised qualification and enrolled as health practitioner in a country outside India for a period of not less than three years, from the requirement of the screening test under this section.

CHAPTER IV

NATIONAL EVALUATION AND ASSESSMENT COMMITTEE

National
Evaluation
and
Assessment
Committee.

34. The Central Government shall, by notification, constitute a Committee to be known as the National Evaluation and Assessment Committee for evaluation and assessment of any university or institution seeking permission under section 17 or imparting education in the discipline of health to assist the Commission in discharge of its powers and functions under this Act.

Composition
of Commi-
tee.

35. (1) The Committee shall consist of the following, namely:—

- (a) a President;
- (b) two whole-time members; and
- (c) four part-time members,

to be appointed by the Central Government on the recommendation of the Selection Committee constituted under section 25.

(2) The President and members referred to in sub-section (1) shall be chosen from the persons of eminence, integrity and outstanding calibre having post graduate degree in the discipline of health, health policy, public health, management, technology, law or finance from a recognised university or institution having ten years of experience in the respective field.

Terms and
conditions of
office of
President and
members of
Committee.

36. (1) A person appointed as the President or a member of the Committee shall hold office for a term of four years from the date on which he enters upon his office or till the date he attains the age of seventy years, whichever is earlier and be eligible for reappointment for another term.

(2) Notwithstanding anything in sub-section (1), the President or a member of the Committee shall hold office during the pleasure of the Central Government.

(3) The salary and allowances payable to and other terms and conditions of service of the President and other members of the Committee shall be such as may be specified by regulation made by the Commission.

37. (1) Subject to the provisions contained in any law for the time being in force relating to accreditation, the Committee shall take measures to develop and regulate the process of evaluation and assessment of institutions imparting health education and programmes conducted therein, and monitor the functioning of agencies recommended by the Commission.

(2) Subject to the provisions contained in any law for the time being in force relating to accreditation, the measures referred to in sub-section (1), may provide the following matters, namely:—

(a) without prejudice to any law for the time being in force specify standards, norms and processes for registration of evaluation and assessment agencies under any law for the time being in force;

(b) undertake audit and cause to be audited the adherence to code of ethics including policies on obviating conflict of interest, disclosure of information, evolving transparency in processes and procedures of evaluation and assessment;

(c) lay down policies for providing information to the public with regard to all aspects of quality and performance of institutions providing health education and programmes conducted therein;

(d) specify and monitor standards on selection and training of experts for the purposes of evaluation and assessment;

(e) scrutinise the report of the evaluation and assessment agency on the applications for consideration of grant of permission for establishing of college, institute or university and make its recommendations to the Commission;

(f) submit a report to the Commission for taking up the matter with the appropriate statutory regulatory authority dealing with the accreditation for review of registration granted or cancellation of registration thereof;

(g) levy of fees or other charges for matters relating to evaluation and assessment;

(h) recommend for improvement of academic quality;

(i) advise the Central Government or any State Government or the appropriate statutory regulatory authority on any policy matter concerning evaluation and assessment which may be referred to it;

(j) develop methodologies of evaluation and assessment in collaboration with other agencies;

(k) promote research and innovation in evaluation and assessment;

(l) collect, compile and disseminate information regarding accreditation of health institutions and programmes conducted therein to the public;

(m) monitor adherence to such norms, guidelines and standards of academic quality, as may be specified under any law for the time being in force by the appropriate statutory regulatory authority, in health educational institutions;

(n) perform such other functions as may be assigned to it by the Commission.

(3) The process of selection of evaluation and assessment agency for evaluation and assessment shall be in a transparent manner and the information relating to the selection of such agency shall be put in the public domain.

(4) Notwithstanding anything contained in this Act or any other law for the time being in force, the Commission or Committee shall not engage the same evaluation and assessment agency for successive inspections or audit inspections, to carry out audit or review inspection of any institute at least for five years.

(5) The evaluation and assessment of a health educational institution shall be done by the evaluation and assessment agencies having such qualifications and experience and in such manner as may be specified by regulations made by the Commission.

Power of
audit and
inspection of
evaluation
and
assessment
agency.

38. (1) The Commission may, in consultation with the Central Government, appoint an audit committee consisting of such number of persons having such qualifications and experience as may be prescribed, for the purpose of audit, inspections or inquiry into the affairs of any evaluation and assessment agency or any health educational institution in so far it relates to their evaluation and assessment.

(2) The Commission may, on the recommendations of the National Evaluation and Assessment Committee, at any time, by order in writing, direct the audit committee specified in the order to audit or inspect or inquire into the affairs of any evaluation and assessment agency or any health educational institution in so far it relates to evaluation and assessment and to report its findings and recommendations to the National Evaluation and Assessment Committee or the Commission, as the case may be.

(3) On receipt of the report from the audit committee under sub-section (2), the Commission may, after giving such opportunity to the evaluation and assessment agency to make a representation in connection with the report, in the opinion of the Commission seems reasonable, by order in writing—

(a) take such action in respect of any matter arising out of the report as the Commission may think fit; or

(b) modify the terms and conditions of certificate of registration as it thinks fit, and terms or conditions so modified shall be binding upon and be observed by the evaluation and assessment agency and shall be of like force and effect as if they were contained in the certificate of registration or approval, as the case may be; or

(c) revoke the certificate of registration of the evaluation and assessment agency or the approval granted to the health educational institution, as the case may be, under this Act.

(4) It shall be the duty of every evaluation and assessment agency and every health educational institution, as the case may be, to produce before the audit committee all such papers and other documents in its custody or power and to furnish any statement and information relating to its affairs, as the audit committee may require of such agency or institution, as the case may be, within such time as the audit committee may specify.

(5) The audit committee may examine on oath, any chief executive or officer or other employee of the evaluation and assessment agency in relation to evaluation and assessment of any health educational institution or programme conducted therein, and may administer oaths accordingly.

(6) The audit committee shall submit its report to the Committee and the Committee shall place the report and the action taken thereon by it or the Commission, on its website.

Executive
Director and
other officers
and employ-
ees of
Committee.

39. (1) There shall be an Executive Director to the National Evaluation and Assessment Committee to be appointed by the Central Government for a period of four years.

(2) The Committee may, with the previous approval of the Central Government, appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(3) The salaries and allowances payable to, and the other terms and conditions of service of the Executive Director and other officers and employees of the Committee shall be such as may be specified by regulations made by the Commission.

Meetings of
Committee.

40. (1) The Committee shall meet at least once in every three months, at such time and place as it may appoint.

(2) The quorum of a meeting of the Committee shall be two members.

(3) The President of the Committee shall preside over its meetings or, if for any reason he is unable to attend, such other member as may be chosen by the members present at the meeting from among themselves.

(4) A member shall be deemed to have vacated his seat if he is absent, without permission, and without sufficient cause in the opinion of the Committee, from three consecutive meetings of the Committee.

(5) Subject to the provisions of this section, the Committee may regulate its own procedure for transaction of business at its meetings.

CHAPTER V

NATIONAL COUNCILS AND STATE COUNCILS

41. (1) On the commencement of this Act, there shall be constituted, from such date as the Central Government may, by notification, appoint, such corresponding new National Councils as are specified in the First Schedule.

Constitution of corresponding National Councils.

(2) On the commencement of this Act, the Central Government shall, by notification, constitute the Paramedical Council of India for the disciplines of paramedics:

Provided that the Central Government may, by notification, constitute National Council for any other discipline of health as may be notified by it under clause (k) of section 2.

(3) Each corresponding new National Council referred to in sub-section (1) and the Paramedical Council of India and the National Council for any other discipline of health referred to in sub-section (2) shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(4) The head office of each National Council referred to in sub-sections (1) and (2) shall be in the National Capital Region referred to in clause (f) of section 2 of the National Capital Region Planning Board Act, 1985.

2 of 1985.

42. On the commencement of this Act, every existing Council shall be transferred to, and shall vest in the Commission.

Existing Councils to vest in Commission.

43. Every person holding office, immediately before the commencement of this Act, as President or Vice-President or other members of an existing Council shall, on such commencement, vacate their offices as such President or Vice-President or other members, as the case may be, and no such President or Vice-President or other member, as the case may be, shall be entitled to claim any compensation for premature termination of the term of his office.

President, Vice President and other members of Council to vacate their offices.

44. Every corresponding new National Council shall, in the discharge of its functions, be guided by such directions in regard to matters of policy involving public interest as the Central Government may, after consultation with the Chairperson of the Commission, give.

Corresponding new National Councils to be guided by the directions of Central Government.

45. Any reference to any existing Council in any law, other than this Act, or in any contract or other instrument shall, in so far as it relates to the undertaking which has been transferred by section 42 be construed as a reference to the corresponding new National Council.

References to existing Councils on and from commencement of this Act.

46. (1) Each National Council referred to in sub-section (1) or sub-section (2) of section 41 shall consist of the following members, namely:—

Composition of National Councils.

(a) one member from each State (other than a Union territory), to be nominated by the Central Government in consultation with the State Government concerned;

(b) one member from each University, to be elected from amongst the members of the faculty of the concerned discipline of health by members of the Senate of the University or in case the University has no Senate, by members of the Court;

(c) one member from each State in which a State Register in the respective discipline is maintained, to be elected from amongst themselves by persons enrolled on such Register;

(d) five members to be nominated by the Central Government from amongst heads of medical institutions in the respective discipline owned, controlled or managed by the Central Government;

(e) five members to be nominated from amongst professionals of respective disciplines by the Central Government;

(f) President of the Board shall be ex officio member of the National Council for each discipline of health;

(2) A member of the National Council shall cease to be such member if he ceases to be a person enrolled on the concerned State Register or to hold office by virtue of which he was elected or nominated, as the case may be, as such member to the Council.

Elections to
National
Councils and
its term.

47. (1) The Commission shall conduct elections for each National Council, within a period of six months from the date of commencement of this Act for constituting the National Councils under section 40 in accordance with such procedure and manner as may be prescribed.

(2) Each National Council constituted under sub-section (1) shall continue for a period of four years from the date on which it is constituted:

Provided that the said period may be extended by the Commission, with the prior approval of the Central Government, for a period not exceeding six months in case it is not possible for any reason to reconstitute the National Council after the expiration of the said period.

(3) The Commission shall commence the process of conducting the next elections for National Council six months before the expiration of the term of the National Council or any extended period as may be provided under sub-section (2).

(4) The Commission shall conduct elections to any vacancy that may arise in the membership of any National Council on account of death, resignation or removal, in such manner as may be prescribed.

President and
Vice-President
of National
Council.

48. (1) Each National Council referred to in section 41 shall have a President and a Vice-President to be elected by the members of the National Council from among themselves in such manner as may be prescribed.

(2) The powers to be exercised, and the functions to be performed, by the President or the Vice-President of the National Council shall be such as may be specified by regulations made by the National Council.

Settlement of
disputes
regarding
election.

49. In case of any dispute regarding any election under section 47 or section 48, the aggrieved person may make an application within a period of thirty days from the date of declaration of the result of election, to the Chairperson of the Commission who shall forward the same to the Central Government.

Meetings of
National
Council.

50. (1) The quorum of a National Council for a meeting shall be one-third of its total membership.

(2) The National Council shall meet at least twice in each year at such time and place as may be appointed by the National Council.

(3) The meetings of the National Council shall be presided over by the President or, if for any reason he is unable to attend, by the Vice-President, and in case he is also unable to attend, such other member as may be chosen by the members present at the meeting from among themselves.

(4) A member shall be deemed to have vacated his seat if he is absent, without permission, and without showing sufficient cause in the opinion of the National Council, from three consecutive meetings of the National Council.

(5) Subject to the provisions of this section, the National Council may make regulations for the transaction of business at its meetings.

51. (1) The National Council shall, subject to the provisions of this Act, take measures to enrol persons having recognised qualifications to enable them to practice in respective discipline of health and to regulate the profession of respective discipline of health.

Functions of
National
Councils.

(2) Without prejudice to the generality of the foregoing provisions, the measures referred to in sub-section (1) may, *inter alia*, provide for all or any of the following matters, namely:—

(a) enrol persons having recognised qualifications to enable them to practice in the respective discipline of health and renew the enrolment from time to time;

(b) maintain and publish the National Register;

(c) organise and conduct seminars, conferences, workshops or other programme from time to time;

(d) grant certificate of good standing to the persons enrolled by it;

(e) levy fees or other charges to be paid by the persons seeking enrolment or persons enrolled by it;

(f) perform such other functions as may be prescribed.

(3) A person enrolled under this Act, before going abroad for the purpose of employment, service, professional assignment or post or position or for exploration of career opportunities or for carrying out any professional or related work, shall obtain the certificate of good standing from the respective National Council or the State Council.

52. (1) Every National Council shall have a Registrar to be appointed by the Central Government for a fixed term of four years who shall not be eligible for re-appointment under this Act.

Registrar and
other officers
and
employees of
National
Council.

(2) The National Council may, with the prior approval of the Central Government, appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(3) The salaries and allowances payable to, and the other terms and conditions of service of the other officers and employees of the National Council shall be such as may be specified by regulations made by the National Council.

53. (1) Where there is no State Council in any State, the State Government shall, by notification, constitute the State Councils for the following disciplines of health, within a period of three years from the date of commencement of this Act, in such manner and with such composition as may be prescribed by the State Government, namely:—

Constitution
of State
Councils.

(a) the Medical Council of (name of the State) for medicine;

(b) the Dental Council of (name of the State) for dentistry;

(c) the Nursing Council of (name of the State) for nursing;

(d) the Pharmacy Council of (name of the State) for pharmacy;

(e) the Paramedical Council of (name of the State) for paramedics;

Provided that the State Government may, by notification, constitute State Councils for any other discipline of health notified under clause (k) of section 2.

(2) Until the State Council is constituted in a State under sub-section (1), the National Council of respective discipline of health shall enrol the persons, in respect of that State, having recognised qualification in the manner provided under this Act:

Provided that the person enrolled under this sub-section shall be entitled to practice in the respective discipline of health only in the State for which he has applied for enrolment.

(3) Each State Council referred to in sub-section (1) shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of this Act, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

(4) The head office of each State Council referred to in sub-section (1) shall be at such place as the State Government may decide.

(5) Each State Council constituted under sub-section (1) shall continue for a period of four years from the date on which it is constituted or, such period as may be prescribed by the State Government.

President and
Vice-President
of State
Council.

54. (1) Each State Council referred to in section 53 shall have a President and a Vice-President to be elected by the members of the State Council from among themselves in such manner as may be prescribed by the State Government.

(2) The powers to be exercised, and the functions to be performed, by the President or the Vice-President of the State Council shall be such as may be specified by regulations made by the State Council.

(3) No person shall be eligible to hold office in any capacity in the State Council whether as a President or Vice-President or member for more than two terms.

Meetings of
State Council.

55. (1) The quorum of a State Council for a meeting shall be one-third of its total membership.

(2) The State Council shall meet at least twice in each year at such time and place as may be appointed by the State Council.

(3) The meetings of the State Council shall be presided over by the President or, if for any reason he is unable to attend, by the Vice-President, and in case he is also unable to attend, such other member as may be chosen by the members present at the meeting from among themselves.

(4) A member shall be deemed to have vacated his seat if he is absent, without permission, and without showing sufficient cause in the opinion of the State Council, from three consecutive meetings of the State Council.

(5) Subject to the provisions of this section, the State Council may make regulations for the transaction of business at its meetings.

Registrar and
other officers
and
employees of
State Council.

56. (1) Every State Council shall have a Registrar to be appointed by the State Government for a fixed term of four years who shall not be eligible for re-appointment under this Act or as may be provided under regulations made by it.

(2) The State Council may, with the prior approval of the State Government, appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under this Act.

(3) The salaries and allowances payable to, and the other terms and conditions of service of the other officers and employees of the State Council shall be such as may be specified by regulations made by the State Council.

57. (1) Every National Council and every State Council shall enrol the persons having recognised qualification, in such form, manner and on payment of such fees and fulfilment of such other criteria or conditions as may be specified by regulations by the National Council, for a period of ten years and the person so enrolled shall be entitled to practice in the respective discipline of health.

Enrolment of
persons.

(2) Before the expiry of the period of ten years referred to in sub-section (1), the National Council or the State Council, as the case may be, may renew the enrolment of such persons for a further period of ten years, on showing the proof that he has attended such seminar, conference, workshop or any other programme as may be specified by the Commission for the purpose of updating his professional knowledge and skill.

Explanation.— For the removal of doubts, it is hereby declared that no person shall be required to appear and pass any qualifying examination for the purpose of renewal of his enrolment under this sub-section.

(3) For the purpose of computing the period of ten years, the period of absence of a person enrolled under this section from India, if any, shall also be taken into account.

(4) Any person enrolled under this section by the National Council shall be entitled to practice in the respective discipline of health anywhere in India and the persons enrolled by the State Council shall be entitled to practice in the respective discipline of health anywhere in the State in which he is enrolled.

(5) Any person enrolled with the existing Medical Council of India or the Dental Council of India or the Nursing Council of India or the Pharmacy Council of India or any State Council, as the case may be, shall be deemed to have been enrolled under this Act and be eligible to continue to practice for a period of ten years and thereafter he shall be required to renew his enrolment under this Act.

58. (1) Every National Council shall enter the name of persons enrolled by it under section 57 in the National Register to be maintained in such manner as may be prescribed.

Registers.

(2) Every State Council shall enter the name of persons enrolled by it under section 57 in the State Register to be maintained in such manner as may be prescribed by the State Government.

(3) Every National Council shall collect data of persons enrolled in the State Register from each State Council and enter the same in separate National Register to be maintained in such manner as may be prescribed.

(4) The National Council and the State Councils shall maintain the register by such data capturing method as may be prescribed by the Central Government or State Government, as the case may be, and shall, *inter alia*, contain the biometric and other details of each health professional which shall be verified at the time of renewal of enrolment.

(5) The National Council and the State Council shall maintain the Register in accordance with the provisions of this Act and update it from time to time, and publish the same in the Official Gazette and in such other manner as may be prescribed by the Central Government or State Government, as the case may be.

(6) The National Register and the State Register maintained under this section shall be deemed to be public document within the meaning of the Indian Evidence Act, 1872.

1 of 1872.

(7) The National Register and the State Register shall also be maintained in electronic form and wherever admissible, be subject to disclosure in the public domain and made amenable for electronic voting for selection of representatives of the profession or for such other purposes as may be prescribed.

(8) No person who is not registered with the State Council or the National Council shall falsely represent that his name is so entered in the State Register or the National Register, or

use in connection with his name or title, any words or letters reasonably calculated to suggest that his name is so entered.

Duty to serve
in India.

59. (1) Any person,—

(a) who obtains a degree at graduate or post graduate or doctoral or post doctoral or super speciality from a university or institution which receives grants from the Central Government or State Government or institutions owned or controlled by the Central or State Government; and

(b) leave India for the purposes of updating or acquiring higher education in the discipline of health,

shall endeavour to serve in India for a period of three years after such updating or acquiring such higher education outside India, failing which his name shall be removed from the National Register or the State Register, as the case may be.

(2) Any person whose name has been removed under sub-section (1), who opts to return to India shall be entitled to get his name re-entered subject to payment of such fees and fulfilment of such conditions as may be specified by regulations by the Commission.

(3) Any person,—

(a) who obtains a degree at graduate or post graduate or doctoral or post doctoral or super speciality from a university or institution other than the university or institution referred to in sub-section (1); and

(b) leaves India for the purposes of updating or acquiring higher education in the discipline of health or for employment and does not return within the period of three years or does not inform the respective Councils of his whereabouts during such period,

then, it shall be construed as professional misconduct.

Prohibition
to practice,
etc., without
enrolment.

60. (1) No person shall, unless he is enrolled on the National Register or the State Register, as the case may be, as a medical practitioner,—

(a) hold office as physician or surgeon or any other office as a medical professional in Government or in any health institution maintained by a local or other authority; or

(b) practice medicine; or

(c) sign or authenticate a medical or fitness certificate or any other certificate required by any law for the time being in force; or

(d) give evidence in any court of law as an expert on any matter relating to medicine.

(2) No person shall, unless he is enrolled on the National Register or the State Register, as the case may be, as a dentist,—

(a) hold any appointment in the field of dentistry or dental hygienist in any dispensary, hospital or other health institution which is supported wholly or partially from public or local funds; or

(b) practice dentistry;

(c) sign or authenticate a certificate required under any law for time being in force from a dentist; or

(d) give evidence in any court of law as an expert in any matter relating to dentistry.

(3) No person shall, unless he is enrolled on the National Register or the State Register, as the case may be, as a nurse, hold any appointment in the field of nursing as teacher in

nursing, nurse, auxiliary nurse, midwife, health visitor, or public health nurse, in any dispensary, hospital or other health institution which is supported wholly or partially from public or local funds.

(4) No person shall, unless he is enrolled on the National Register or the State Register, as the case may be, as a pharmacologist, practice pharmacy.

(5) No person shall, unless he is enrolled on the National Register or the State Register, as the case may be, of Paramedics,—

(i) hold any appointment as paramedic in any dispensary, hospital or other health institution which is supported wholly or partially from public or local funds; or

(ii) practice as a paramedics.

61. Every person, whose name is for the time being borne on the National Register or the State Register, as the case may be, shall subject to the conditions and restrictions laid down by or under this Act, be entitled to practice in the discipline of his enrolment and to recover in respect of such practice any expenses, charges in respect of medicaments or other appliances, or any fees to which he may be entitled.

Privileges of persons enrolled on National Register or State Registers.

62. (1) Any person enrolled under section 57 shall inform transfer of his place of residence or practice to the Council concerned, within a period of thirty days of such transfer.

Persons enrolled to notify change of place of residence or practice.

(2) If the person referred to in sub-section (1) fails to comply with the requirements of that sub-section, his right to participate in the elections to the Council concerned shall be liable to be suspended by an order of that Council, for such period as may be specified by regulations made by the Council.

63. Each State Council shall supply to the National Council printed copies of the State Register as soon as may be after the commencement of this Act and subsequently after the first day of April of each year and the State Council shall inform the National Council without delay of all additions to and other amendments in the State Register made from time to time.

Supply of copies of State Register

64. A person enrolled with the respective National Council shall be liable for all the acts of omission, commission, or professional misconduct arising in the State in which the cause of action has arisen.

Liability of persons enrolled with respective National Councils.

65. (1) A citizen of India or a registered overseas Citizen of India possessing recognised qualification in the discipline of medicine granted by a medical institution outside India, who is required to undergo practical training, on such terms and conditions as the commission may specify, shall, on production of evidence that he has been selected for such practical training in an approved institution, be entitled to enroll himself provisionally in a State Register and shall be entitled to practice medicine in the approved institution for the purposes of such training and for no other purpose.

Provisional registration of persons possessing required qualification from any institution outside India.

(2) A person who has passed the qualifying examination of any university or Institution in India in the discipline of medicine for the grant of a recognised qualification shall be entitled to enroll himself provisionally in a State Register for the purposes of enabling him to be engaged in employment in a resident medical capacity in any approved institution or in the Medical Service of the Armed Forces of the Union, and for no other purpose, on production of proper evidence that he has been selected for such employment.

(3) The names of all persons provisionally enrolled under sub-section (1) or sub-section (2) in the State Register shall be entered therein separately from the names of other persons enrolled therein.

(4) A person enrolled provisionally as aforesaid who has completed practical training referred to in sub-section (1) or who has been engaged for the specified period in employment

in a resident medical capacity in any approved institution, or in the medical service of the Armed Forces of the Union, as the case may be, shall be entitled to enroll himself in the State Register.

Entry of
additional
qualifications.

66. If any person whose name is entered in the National Register or the State Register, as the case may be, obtains any title, diploma or other qualification for proficiency in sanitary science, public health or medicine which is a recognised medical qualification, he shall, on application made in this behalf in such manner as may be prescribed, be entitled to have any entry stating such other title, diploma or other qualification made against his name in such Register either in substitution for or in addition to any entry previously made.

Code of
ethics.

67. The National Council shall specify, by regulations, the standards of professional conduct, etiquette and code of ethics to be observed by the persons enrolled under this Act.

Professional
misconduct.

68. For the purposes of this Act, the expression, "professional misconduct" shall be deemed to include any act or omission provided in the Seventh Schedule but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the respective Councils under this Act to inquire into the professional conduct of any person whose name is included in the National Register or State Register, under any other circumstances.

Power of
National
Council and
State Councils
to institute
inquiry and to
impose
penalties.

69. (1) Every National Council and every State Council shall have power to institute an inquiry into any complaint, charge or allegation of professional misconduct against any person enrolled by it under this Act and on finding such person guilty of such conduct, to impose any one or more of the following penalties, namely:—

- (a) a warning or a reprimand or a reprimand and a warning;
- (b) suspension of registration for a period not exceeding two years; or
- (c) removal of his or her name from the register;
- (d) impose a monetary penalty not exceeding ten lakh rupees;
- (e) a compulsory period of such professional service as may be specified by regulations made by the Council.

(2) Every National Council or State Council, as the case may be, shall give an opportunity of being heard to the concerned person before imposing upon him any of the penalties referred to in sub-section (1).

Appeals
against
decision under
section 69.

70. (1) Any person aggrieved by the decision of the National Council may, within a period of ninety days from the date of communication of such decision, prefer an appeal to the ethics committee to be constituted by the Commission.

(2) Any person aggrieved by the decision of the State Council may, within a period of ninety days from the date of communication of such decision, prefer an appeal to the ethics committee to be constituted by the State Council.

(3) Any person aggrieved by an order of the ethics committee referred to in sub-section (1) or sub-section (2) may, within a period of sixty days from the date of receipt of the order of the said Committee, prefer an appeal to the ethics appellate committee to be constituted by the National Council.

(4) The composition of, and the procedure to be followed by, the ethics committee and the ethics appellate committee and terms and conditions of such members shall be such as may be prescribed.

Removal of
names from
National
Register or
State Register
and restora-
tion thereof.

71. (1) The National Council, or as the case may be, the State Council may remove the name of any person enrolled by it in such circumstances and in such manner as may be specified by regulations made by the Commission.

(2) The Commission may, in case of removal of name of any person from the National Register or the State Register (except in case of professional misconduct), on an application, if it is satisfied on the grounds mentioned therein and after making such inquiry as it deems necessary, may direct, by order, the National Council or the State Council, as the case may be, to restore the name of such person on payment of such fees or fulfillment of such conditions which it may impose in the order.

72. (1) Any person aggrieved from the professional services rendered by the persons enrolled under this Act may file a complaint with the State Council, within a period of sixty days from the date of rendering of such service, in such manner as may be specified by regulations made by the Commission:

Grievance
Redressal
Mechanism.

Provided that the complaint may be admitted after expiry of the said period of sixty days if the complainant satisfies the Council that he had sufficient cause for not preferring the complaint within the said period.

(2) The Council shall decide the complaint within a period of one hundred and twenty days from date of its receipt.

73. (1) The National Council may, with the previous approval of the Central Government, make regulations consistent with the provisions of this Act or the rules or regulations made by the Commission.

Power of
National
Council to
make
regulations.

(2) In particular, and without prejudice to the generality of foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) other ethical principles under clause (b) of section 2;
- (b) the powers to be exercised and the functions to be performed by the President or the Vice-President of the National Council under sub-section (2) of section 48;
- (c) the procedure for transaction of business at meetings of the National Council under sub-section (5) of section 50;
- (d) the salaries and allowances payable to and the other terms and conditions of the service of the other officers and employee of the National Council under sub-section (3) of section 52;
- (e) the form and manner of enrolment of persons and the fees and such other criteria or conditions for such enrolment under sub-section (1) of section 57;
- (f) the standards of professional conduct, etiquette and code of ethics under section 67;
- (g) the professional service to be rendered under clause (e) of sub-section (1) of section 69;
- (h) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

74. (1) The State Council may, with the previous approval of the State Government, make regulations consistent with the provisions of this Act or the rules or regulations made by the Commission and the National Council.

Power of
State Council
to make
regulations.

(2) In particular, and without prejudice to the generality of foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) the powers to be exercised, and the functions to be performed, by the President or the Vice-President of the State Council under sub-section (2) of section 54;
- (b) the procedure for transaction of business at meetings of the State Council under sub-section (5) of section 55;
- (c) the salaries and allowances payable to and the other terms and conditions of the service of the other officers and employee under sub-section (3) of section 56;

(d) the professional service to be rendered under clause (e) of sub-section (I) of section 69;

(e) any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

CHAPTER VI

AUDIT AND ACCOUNTS

Grants by
Central
Government.

75. The Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as the Central Government may think fit, for being utilised for the purposes of this Act.

Constitution
of Fund of
Commission.

76. (1) There shall be constituted a fund to be called "the National Commission for Human Resource for Health Fund" and there shall be credited thereto—

(a) all Government grants, fees and charges received by the Commission;

(b) all sums received by the Commission from such other source as may be decided upon by the Central Government.

(2) The Fund shall be applied for meeting—

(a) the salaries, allowances and other remuneration of the members, officers and other employees of the Commission, Board, Committee and National Councils;

(b) the other expenses of the Commission in connection with the discharge of its functions and for the purposes of this Act;

(c) the expenses of the Board, Committee and National Councils in connection with the discharge of their functions and for the purposes of this Act.

Accounts and
audit.

77. (1) The Commission, Board, Committee, National Council and State Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed, in consultation with the Comptroller and Auditor-General of India.

(2) The accounts of the Commission, Board, Committee, National Council and State Council shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.

(3) The Comptroller and Auditor-General of India and any other persons appointed by him in connection with the audit of the accounts of the Commission, Board, Committee, National Council and State Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission, Board, Committee, National Council and State Council.

(4) The accounts of the Commission, Board, Committee, National Council, State Council as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually by the Commission, Board, Committee, National Council and State Council to the Central Government which shall cause the same to be laid as soon as may be after it is received, before each House of Parliament.

Furnishing of
returns and
reports to the
Central
Government.

78. (1) The Commission, Board, Committee, National Council, State Council, and other committee shall furnish to the Central Government at such time and in such form as may be prescribed, an annual report giving a summary of their activities during the previous year.

(2) A copy of the report received by the Central Government under sub-section (1) shall be laid, as soon as may be after it is received, before each House of Parliament.

CHAPTER VII

OFFENCES AND PENALTIES

79. Whoever contravenes the provision of section 17 shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both for the first offence and in case of second or subsequent offence, with imprisonment for a term which may extend to three years or with fine which may extend to twenty-five lakh rupees, or with both.

Punishment for establishing institution, etc., without permission.

80. Any person who contravenes the provisions of section 57 relating to enrolment shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both for the first offence and in case of second or subsequent offence, with imprisonment for a term which may extend to three years or with fine which may extend to twenty-five lakh rupees, or with both.

Penalty for contravention of section 57.

81. Any person who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both for the first offence and in case of a second or subsequent offence, with imprisonment for a term which may extend to three years or fine which may extend to twenty five lakh rupees or with both.

Penalty for contravention of section 33.

82. Where on assessment under section 38 it is found that the information provided by a university or an institution imparting health education, is not in conformity with the information displayed at its website or information given to the concerned authorities for evaluation and assessment, then the Head of the university or institution in case of Government university or institution and in case of non-governmental university or institution, any director, manager, secretary or other officer of the company, trusts, societies such director, manager, secretary or other officer shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both.

Punishment for furnishing information contrary to which published by institutions.

83. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Offences by companies.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director” means a whole-time director in the company and in relation to a firm, means a partner in the firm.

84. (1) Where an offence under this Act has been committed by a society or a trust, every person who, at the time the offence was committed, was in charge of, and was responsible

Offences by societies or trusts.

to, the society or trust for the conduct of the business of the society or trust, as well as the society or trust, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a society or trust and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary, trustee or other officer of the society or trust, such director, manager, secretary, trustee or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) “society” means any body corporate registered under the Societies Registration Act, 1860 and, “trust” means any body registered under the Indian Trusts Act, 1882 or any other law for the time being in force;

21 of 1860.
2 of 1882.

(b) “director”, in relation to society or trust, means a member of its governing board other than an *ex officio* member representing the interests of the Central or State Government.

Cognizance
of offences.

85. (1) No court shall take cognizance of any offence punishable under this Act, save on a complaint made by the Commission or by an officer authorised by it.

(2) No court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

CHAPTER VIII

MISCELLANEOUS

Power of
Central
Government
to supersede
Commission,
Board,
Committee or
National
Council.

86. (1) If, at any time the Central Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the Commission, Board, Committee or National Council, as the case may be, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the Commission, Board, Committee or National Council, as the case may be, has persistently defaulted in complying with any direction given by the Central Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the Commission, the Board, the Committee or the National Council, or the administration of the Commission, the Board, the Committee or the National Council, as the case may be, has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the Central Government may, by notification, supersede the Commission, the Board, the Committee or the National Council, as the case may be, for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the Chairperson or the President, as the case may be, to exercise powers and discharge functions of the Commission, Board, Committee or National Council, as the case may be, under this Act:

Provided that before issuing any such notification, the Central Government shall give a reasonable opportunity to the Commission, the Board, the Committee or the National

Council, as the case may be, to make representations against the proposed supersession and shall consider the representations, if any, of the Commission, the Board, the Committee or the National Council, as the case may be.

(2) Upon the publication of a notification under sub-section (1) superseding the Commission, the Board, the Committee or the National Council, as the case may be,—

(a) the Chairperson, President, Vice-President and other members shall, as from the date of supersession, vacate their offices as such;

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the Commission, the Board, the Committee or the National Council, as the case may be, shall, until the Commission, the Board, the Committee or the National Council, as the case may be, is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the Commission, the Board, the Committee or the National Council, as the case may be, shall, until the Commission, the Board, the Committee or the National Council, as the case may be, is reconstituted under sub-section (3), vest in the Central Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the Central Government shall reconstitute the Commission, the Board, the Committee or the National Council, as the case may be, by a fresh appointment of its Chairperson, President, Vice-President and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The Central Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

87. (1) If, at any time the State Government is of the opinion,—

(a) that, on account of circumstances beyond the control of the State Council, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of this Act; or

(b) that the State Council has persistently defaulted in complying with any direction given by the State Government under this Act or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of this Act and as a result of such default the financial position of the State Council, or the administration of the State Council, has suffered; or

(c) that circumstances exist which render it necessary in the public interest so to do,

the State Government may, by notification, supersede the State Council for such period, not exceeding six months, as may be specified in the notification and appoint a person or persons as the President to exercise powers and discharge functions under this Act:

Provided that before issuing any such notification, the State Government shall give a reasonable opportunity to the State Council to make representations against the proposed supersession and shall consider the representations, if any, of the State Council.

(2) Upon the publication of a notification under sub-section (1) superseding the State Council,—

(a) the President and other members shall, as from the date of supersession, vacate their offices as such;

Power of
State
Government
to supersede
State Council.

(b) all the powers, functions and duties which may, by or under the provisions of this Act, be exercised or discharged by or on behalf of the State Council shall, until the State Council is reconstituted under sub-section (3), be exercised and discharged by the person or persons referred to in sub-section (1); and

(c) all properties owned or controlled by the State Council shall, until the State Council is reconstituted under sub-section (3), vest in the State Government.

(3) On or before the expiration of the period of supersession specified in the notification issued under sub-section (1), the State Government shall reconstitute the State Council, by a fresh appointment of its President and other members and in such case any person who had vacated his office under clause (a) of sub-section (2) shall not be deemed to be disqualified for reappointment.

(4) The State Government shall cause a copy of the notification issued under sub-section (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before State Legislature at the earliest.

Declaration
of interest.

88. The President or Vice-President and other Members of the Board, Committee, National Council or State Council, as the case may be, shall immediately after entering office and every year thereafter, make a declaration to the extent of their interest, whether direct or indirect and whether financial or otherwise, in any health institution which comes under the purview of the Board, Committee, National Council or State Council, as the case may be, and the same shall be placed in the public domain.

Restrictions
on re-
employment.

89. (1) The President or Vice-President and other members of the Board, Committee, National Council or the State Council, as the case may be, on ceasing to hold office shall not for a period of two years accept any employment (including as consultant or expert or otherwise) in any health educational institution whose matter has been dealt with by such President, Vice-President or member, as the case may be.

(2) Nothing in sub-section (1) shall prevent the President, Vice-President or a member, as the case may be, to accept any employment in any health educational institution controlled or maintained by the Central Government or the State Government.

Member to
act as
President, or
to discharge
his functions,
in certain
circumstances.

90. (1) In the event of the occurrence of any vacancy in the office of the President or other member of the Board, Committee, National Council or the State Council, as the case may be, by reasons of death, removal, suspension or resignation, the senior most whole-time member of such the Board, Committee, National Council or the State Council, as the case may be, shall act as the President till such time the President is appointed, to fill the vacancy.

(2) When the President is unable to discharge his functions owing to absence on account of leave or otherwise, the senior-most whole-time member shall discharge the functions of the President till the President is able to discharge his functions.

Restriction
on holding
office for
more than
two terms.

91. Notwithstanding anything in this Act, no person shall be eligible to be appointed or nominated or elected in any capacity in the Commission, Board, Committee, National Council or State Council, whether as the Chairperson or President or Vice-President or member for more than two terms.

Resignation
of President,
Vice-
President or a
member of
Board,
Committee,
National
Council or
State Council.

92. The President, Vice-President or a member of the Board, Committee, National Council or the State Council, as the case may be, may, by notice given in writing under his hand of not less than a period of thirty days, addressed to the Central Government or, as the case may be, the State Government, resign from his office:

Provided that the President, Vice-President or a member of the Board, Committee, National Council or the State Council, as the case may be, shall, unless permitted by the Central Government or, as the case may be, the State Government, to relinquish office sooner, continue to hold office until the expiry of a period of thirty days from the date of receipt of such notice or until a person duly appointed as his successor enters upon office or until the expiry of his term of office, whichever is earliest.

93. (1) The Central Government or, as the case may be, the State Government may, by order, remove from office the President or Vice-President or any member of the Board, Committee, National Council or the State Council, as the case may be, who—

- (a) has been adjudged an insolvent; or
- (b) being whole-time member has engaged at any time, during his term of office, in any paid employment; or
- (c) has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or
- (d) has become physically or mentally incapable of acting as such Chairperson or other Member; or
- (e) is of unsound mind and stands so declared by a competent court; or
- (f) has been removed or dismissed from the service or office of the Central Government or of a State Government or from a body owned or controlled by the Central Government or a State Government or from any Central or State statutory body;
- (g) has acquired such financial or other interest as is likely to affect prejudicially his functioning as Chairperson or other Member, as the case may be; or
- (h) has so abused his position as to render his continuance in office prejudicial to public interest; or
- (i) has been guilty of proved misconduct; or
- (j) has been guilty of proved conflict of interest in the discharge of functions.

(2) The President, Vice-President or a member of the Board, Committee, National Council or State Council, as the case may be, shall not be removed from his office under clause (g) or clause (h) or clause (i) of sub-section (1), unless he has been given a reasonable opportunity of being heard in the matter:

Provided that the Central Government or, as the case may be, the State Government may, if it considers necessary in the public interest, suspend such President, Vice-President or other member.

94. No act or proceeding of the Board, Committee, National Council or State Council, as the case may be, shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Board, Committee, National Council or State Council, as the case may be; or
- (b) any defect in the appointment of a person as a Member of the Board, Committee, National Council or State Council, as the case may be; or
- (c) any irregularity in the procedure of the Board, Committee, new Council or State Council, as the case may be, not affecting the merits of the case.

95. (1) The Board, Committee, National Council or State Council shall be competent to constitute such other committees for general or special purposes, as it may consider necessary to carry out the functions assigned to it under this Act.

(2) The Board, Committee, National Council or State Council may engage such experts for discharging its functions under this Act for such period, on such qualification and on payment of such fees and remuneration as may be specified by regulations made by Commission.

96. (1) Every health educational institution under this Act shall at all times maintain a website and display all such information as may be required by the Commission, Board or Committee, as the case may be.

Suspension and Removal of President, Vice-President or a member of Board, Committee, National Council or State Council.

Vacancies, etc., not to invalidate proceedings of Board, Committee, National Council or State Council.

Power to appoint committees or experts.

Reporting by universities and institutions.

(2) The Commission, Board or Committee, as the case may be, shall either themselves or through such other experts, at any time during the existence of the evaluation or assessment, without any notice may assess the performance standards and benchmarks as displayed by the University or health institution on its website.

(3) The Central Government may by notification specify such procedure as may be necessary to prevent unfair practices by university or institutions imparting health education.

State or regional administrative offices.

97. The Commission, Board, Committee or the National Council, may, with prior approval of the Central Government, establish State or regional level administrative offices, to perform such functions relating to information management, coordination and liaison in the State or region for which such office is set up.

Reference of dispute to Central Government.

98. Where any dispute arises regarding any recommendation or advice of Board or Committee or National Council made to the Commission, it shall be referred to the Central Government whose decision thereon shall be final and binding.

Appeal against decisions of Commission.

99. (1) Any person aggrieved by an order made by the Commission under section 98 may prefer an appeal to the Central Government within such period as may be prescribed.

(2) No appeal shall be admitted if it is preferred after the expiry of the period prescribed therefor:

Provided that an appeal may be admitted after the expiry of the period prescribed therefore if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

(3) Every appeal made under this section shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

(4) The procedure for disposing of an appeal shall be such as may be prescribed:

Provided that before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

Bar of Jurisdiction.

100. No order refusing to enrol name of any person in the National Register or the State Register, as the case may be, or removing a name therefrom shall be called in question in any court.

Protection of action taken in good faith.

101. No suit, prosecution or other legal proceeding shall lie against any person for anything which has been done or intended to be done in good faith under this Act.

Members, etc., to be public servants.

102. The Chairperson, President, Vice-President and Members and the Chief Executive Officer, Executive Director and other officers and employees of the Commission, Board, Committee, National Council or State Council, as the case may be, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

45 of 1860.

Powers of Commission, Board, Committee or National Council to call for information or conduct investigations, etc.

103. (1) Where the Commission, Board, Committee or National Council, as the case may be, consider it expedient so to do, it may, by order in writing—

(a) call upon any health educational institution at any time to furnish in writing, such information or explanation relating to its affairs as the Commission, Board, Committee or National Council, as the case may be, may require; or

(b) appoint one or more persons to make an inquiry in relation to the affairs of any health educational institution; and

(c) direct any of its officers or employees to inspect the books of account or other documents of any health educational institution.

(2) Where any inquiry in relation to the affairs of a health educational institution has been undertaken under sub-section (1),—

(a) every officer of the Government Department, if such health educational institution is a department of the Government;

(b) every director, manager, secretary or other officer, if such health educational institution is a company; or

(c) every partner, manager, secretary or other officer, if such health educational institution is a firm; or

(3) Every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in sub-section (2), shall produce before the Commission, Board, Committee or National Council, as the case may be, making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Commission, Board, Committee or National Council, as the case may be, with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified by the Commission.

(4) Every health educational institution shall maintain such books of account or other documents as may be specified by regulations made by the Commission.

(5) The Commission, Board, Committee or National Council, as the case may be, shall have the power to issue such directions to health educational institution as it may consider necessary for proper functioning of such institution.

104. (1) Notwithstanding anything contained in this Act, any student of health educational institutions who, immediately before the commencement of this Act was studying for a degree, diploma or certificate in any such institution shall continue and complete his course for that degree, diploma or certificate, as the case may be, and such institutions shall provide for the instruction and examination for such student in accordance with the syllabus of studies as existed before the commencement of this Act and shall be deemed to have completed his course of study and awarded degree, diploma or certificate, as the case may be, under this Act.

Completion of courses of studies in health educational institutions.

(2) Notwithstanding anything contained in this Act, the health educational institution in case of lapse of its recognition whether by efflux of time or by withdrawal by the Commission or by its voluntary surrender or for any other reason whatsoever shall continue to maintain and provide the minimum standards of infrastructure approved by the Commission till such time that all the candidates are able to complete their study in such institutions.

105. (1) Without prejudice to the foregoing provisions of this Act, the Commission, Board, Committee or National Council, as the case may be, shall, in exercise of its powers and in performance of its functions under this Act, be bound by such directions on questions of policy, as the Central Government may give in writing to it from time to time:

Power of Central Government to issue directions.

Provided that the Commission, Board, Committee or National Council, as the case may be, shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) If any dispute arises between the Central Government and the Commission, Board, Committee or National Council, as the case may be, as to whether a question is or is not a question of policy, the decision of the Central Government shall be final.

106. (1) Without prejudice to the foregoing provisions of this Act, the State Council shall, in exercise of its powers and in performance of its functions under this Act, be bound by such directions on questions of policy, as the State Government may give in writing to it from time to time:

Power of State Government to issue directions.

Provided that the State Council shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section.

(2) If any dispute arises between the State Government and the State Council as to whether a question is or is not a question of policy, the decision of the State Government shall be final.

Commission,
Board,
Committee
and National
Council to
furnish
information
to Central
Government.

107. The Commission, Board, Committee and National Council shall furnish to the Central Government any information with respect to their activities as the Central Government may from time to time require.

Power to
amend
Schedules.

108. The Central Government may, after consultation with the Commission, by notification, add to or otherwise amend any of the Schedules of this Act for the purposes of the Act and thereupon the said Schedules shall be deemed to be amended accordingly.

Review.

109. The Central Government may appoint an independent committee once in every five years to review the functioning of the Commission, Board, Committee or National Council, as the case may be.

Act to have
overriding
effect.

110. (1) Subject to the provisions of sub-section (2), the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

(2) The provisions of this Act or the rules made thereunder shall be in addition to, and not in derogation of, the Indian Medical Degrees Act, 1916.

7 of 1916.

Power of
Central
Government
to make rules.

111. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner of appointment of the Selection Committee under sub-section (1) of section 5;

(b) the term of the Selection Committee under sub-section (3) of section 5;

(c) the salary and allowances payable to and other terms and conditions of service of the Chairperson and other members under sub-section (3) of section 6;

(d) the salary and allowances and other terms and conditions of service of the Chief Executive Officer and other officers and employees of the Commission under sub-section (5) of section 15;

(e) such other functions to be performed by the Commission under clause (p) of sub-section (2) of section 16;

(f) any other factors to be considered by the Committee and the Commission while passing an order for approving or disapproving the scheme under clause (g) of sub-section (8) of section 17;

(g) the manner of appointment of the chairperson and members of the Selection Committee under sub-section (1) and their term under sub-section (4) of section 25;

(h) the salary and allowances payable to and other terms and conditions of service of the President and other members of the Board under sub-section (3) of section 27;

(i) such other functions to be performed by the Board under clause (ze) of sub-section (2) of section 30;

(j) the number of persons to be appointed and the qualifications and experience of the audit committee under sub-section (1) of section 38;

(k) the procedure and the manner in which the National Councils are to be constituted under sub-section (1) of section 47;

(l) the manner of conducting elections under sub-section (4) of section 47;

(m) the manner of elections of the President and Vice-President of each National Council under section 48;

(n) such other functions which the National Council may perform under clause (f) of sub-section (2) of section 51;

(o) the manner in which the National Register shall be maintained under sub-section (1) of section 58;

(p) the manner in which a separate National Register shall be maintained under sub-section (3) of section 58;

(q) the data capturing method by which the National Councils shall maintain the register under sub-section (4) of section 58;

(r) the manner in which the National Council shall update and publish the Register under sub-section (5) of section 58;

(s) such other purposes for which the National Register may be used under sub-section (7) of section 58;

(t) the manner in which an application may be made for entry of additional qualifications under section 66;

(u) the composition of and the procedure to be followed by the ethics committee and the ethics appellate committee and terms and conditions of such members under sub-section (4) of section 70;

(v) the form in which an annual statement of accounts shall be maintained under sub-section (1) of section 77;

(w) the time and the form in which an annual report shall be furnished under sub-section (1) of section 78;

(x) the period within which appeal may be preferred to the Central Government under sub-section (1) of section 99;

(y) the form of application and the fees to be paid under sub-section (3), and the procedure for disposing of an appeal under sub-section (4) of section 99;

(z) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be, or may be made by rules.

112. (1) The Commission may, with prior approval of the Central Government, by notification, make regulations consistent with this Act and the rules made thereunder, to carry out the purposes of this Act.

Power of
Commission
to make
regulations.

(2) In particular, and without prejudice to the generality of the foregoing provision, such regulation may provide for all or any of the following matters, namely:—

(a) the conduct of business at the meetings of the Commission under sub-section (5) of section 13;

(b) the functions to be discharged by the Chief Executive officer under sub-section (2) of section 15;

(c) the continuous medical education and the courses workshops and training activities under clause (l) and such other functions under clause (p) of sub-section (2) of section 16;

(d) the form, particulars and manner in which the scheme shall be made and the fees for submission of the scheme under sub-section (3) of section 17;

(e) the functions in respect of which fees and charges may be levied under section 22;

(f) the salaries and allowances payable to, and other terms and conditions of service of the other officers and employees of the Board under sub-section (4) of section 28;

(g) the manner of conducting examination for entry to graduate, post graduate, doctoral, post doctoral, super speciality or diploma courses and fellowship examination by the Board under section 31;

(h) the salary and allowances payable to and other terms and conditions of service of the President and other members of the Committee under sub-section (3) of section 36;

(i) the qualifications and experience of, and the manner of evaluation and assessment of health educational institutions by, the evaluation and assessment agencies under sub-section (5) of section 37;

(j) the salary and allowances payable to and other terms and conditions of service of the Executive Director and other officers and employees of the Committee under sub-section (3) of section 39;

(k) the fees and the conditions for re-entry of name of the person under sub-section (2) of section 59;

(l) the period of suspension of the right of person to participate in elections to council under sub-section (2) of section 62;

(m) the circumstances and manner of removal of name of any person enrolled by the National Council, or as the case may be, the State Council under sub-section (1) of section 71;

(n) the manner of filing a complaint with the State Council under sub-section (1) of section 72;

(o) the period for which the Board, Committee, National Council or State Council may engage committees or experts, the qualifications of such experts and the fees and remunerations to be paid under sub-section (2) of section 95;

(p) the books of account and other documents to be maintained by health educational institutions under sub-section (4) of section 103;

(q) any other matter for which provision may be made by regulations by the Commission under this Act.

Power of
State
Government
to make rules.

113. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the manner in which the State Councils are to be constituted and its composition under sub-section (1) of section 53;

(b) the period of State Council to continue under sub-section (5) of section 53;

(c) the manner of election of the President and Vice-President of the State Council to be elected by the members under sub-section (1) of section 54;

(d) the manner in which the State Register shall be maintained under sub-section (2) of section 58;

(e) the data capturing method by which the State Councils shall maintain the register under sub-section (4) of section 58;

(f) the manner in which the State Council shall update and publish the Register under sub-section (5) of section 58;

(g) any other matter for which provision may be made by rules by the State Government under this Act.

114. (1) Every rule and every regulation made and every notification issued by the Central Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or notification or both Houses agree that the rule or regulation or notification should not be made or issued, the rule or regulation or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation or notification.

Laying of
rules and
regulations.

(2) Every rule made by the State Government and every regulation made by the State Council shall be laid, as soon as may be after it is made, before each House of the state legislature where it consists of two Houses, or where such Legislature consists of one House, before that House.

115. (1) Where the Central Government considers it expedient so to do, it may, by order in writing, direct the Commission or Board or Committee or National Council, as the case may be, to make any regulations or to amend or revoke any regulations already made within such period as it may specify in this behalf.

Powers of
Central
Government
to direct
regulations to
be made or to
make or
amend
regulations.

(2) If the Commission or Board or Committee or National Council, as the case may be, fails or neglects to comply with such order within the specified period, the Central Government may make the regulations or amend or revoke the regulations made by the Commission or Board or Committee or National Council, as the case may be, either in the form specified in the order or with such modifications thereof as the Central Government thinks fit.

116. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as may appear to it to be necessary for removing the difficulty:

Power to
remove
difficulties.

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of Parliament.

117. (1) With effect from such date as the Central Government may appoint in this behalf, the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956 shall stand repealed and the Nursing Council of India, the Pharmacy Council of India, the Dental Council of India and Medical Council of India shall stand dissolved:

Repeal and
savings.

Provided that during the period between the date of coming into force of this Act and date of repeal of the enactments mentioned in this sub-section, the existing Nursing Council of India, the Pharmacy Council of India, the Dental Council of India and the Medical Council of India, as the case may be, shall not take any decision or action, except with the prior approval of the Commission on any matter specified by it.

(2) On the commencement of this Act, every existing Council shall be transferred to, and shall vest in, the Commission.

(3) Each existing Council which is transferred to, and which vest in, the Commission shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other

48 of 1947.
8 of 1948
16 of 1948.
102 of 1956.

rights and interests in, or arising out of, such property as were immediately before the commencement of this Act in the ownership, possession, power or control of the existing Council, whether within or without India, and all books of account, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the existing Council.

(4) If, according to the laws of any country outside India, the provisions of this Act by themselves are not effective to transfer or vest any asset or liability situated in that country which forms part of an existing Council to, or in, the Commission, the affairs of the existing Council in relation to such asset or liability shall, on and from the commencement of this Act, stand entrusted to the Chief Executive Officer for the time being of the Commission, and the Chief Executive Officer may exercise all powers and do all such acts and things as may be exercised or done by the existing Council for the purpose of effectively transferring such assets and discharging such liabilities.

(5) The Chief Executive Officer of the Commission shall, in exercise of the powers conferred on him by sub-section (4), take all such steps as may be required by the laws of any such country outside India for the purpose of effecting such transfer or vesting, and may either himself or through any person authorised by him in this behalf realise any asset and discharge any liability of the existing Council.

(6) Unless otherwise expressly provided by this Act, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of this Act and to which the existing Council is a party or which are in favour of the existing Council shall be of as full force and effect against or in favour of the Commission, and may be enforced or acted upon as fully and effectually as if in the place of the existing Council, the Commission had been a party thereto or as if they had been issued in favour of the Commission.

(7) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any existing Council which has been transferred under sub-section (2) is pending by or against the existing Council, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the existing Council or of anything contained in this Act but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Commission.

(8) Nothing in this Act shall be construed as applying to the assets, rights, powers, authorities and privileges and property, movable and immovable, cash balances and investments in any country outside India (and other rights and interests in, or arising out of, such property) and borrowings, liabilities and obligations of whatever kind subsisting at the commencement of this Act, of any existing Council operating in that country if, under the laws in force in that country.

(9) Notwithstanding such repeal, anything done or any action taken under the provisions of the aforesaid Acts shall, insofar as such thing or action is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the provisions of this Act as if the said provisions were in force when such thing was done or such action taken, and shall continue in force.

Provisions in respect of officers and other employees of existing Council and National Board of Examinations.

118. (1) Every officer or other employee of the existing Council (except the President, Vice-President and members of the existing Council) or the National Board of Examinations, as the case may be, serving in the employment immediately before the appointed day shall become, as from the appointed day, an officer or, as the case may be, other employee of the Commission and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave fare concession, welfare scheme, medical benefit scheme, insurance, provident fund, other retirement funds, voluntary retirement, gratuity and other benefits as he would have held under the existing Council if its undertaking

had not vested in the Commission and shall continue to do so as an officer or, as the case may be, other employee of the existing Council or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of the existing Council within such period.

(2) The Commission may transfer any officer or other employee or the services of such officers or other employees as it may deem fit, to the Board, Committee or the National Council.

(3) Where an officer or other employee of the existing Council opts under sub-section (1) not to be in employment or service of the Commission, such officer or other employee shall be deemed to have resigned.

14 of 1947.

(4) Notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the existing Council or the National Board of Examinations, as the case may be, to the Commission shall not entitle such officer or other employee to any compensation under this Act or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority.

(5) The officer and other employees who have retired before the appointed day from the service of the existing Council or the National Board of Examinations, as the case may be, and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Commission.

(6) The provident fund or the gratuity fund of the existing Council or the National Board of Examinations, as the case may be, and any other bodies created for the welfare of officer or other employees would continue to discharge their functions in the Commission as was being done hitherto in the existing Council or the National Board of Examinations, as the case may be, and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Commission.

1 of 1956.

(7) Notwithstanding anything contained in this Act or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of the existing Council or the National Board of Examinations, as the case may be, the President or Vice-President or member or the trustees, executive trustee or any other person entitled to manage the whole or substantial part of the business and affairs of the existing Council or the National Board of Examinations, as the case may be, shall not be entitled to any compensation against the Commission for the loss of office or for the premature termination of any contract of management entered into by him with the Commission.

48 of 1947.

8 of 1948

16 of 1948.

102 of 1956.

119. (1) Notwithstanding the repeal of the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956, the educational standards, requirements and other provisions of the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956 and the rules and regulations made thereunder shall continue to be in force and operate till new standards are specified under this Act or the rules and regulations made thereunder:

Transitory provisions.

Provided that anything done or any action taken as regards the educational standards and requirements under the enactments under repeal and the rules and regulations made thereunder shall be deemed to have been done or taken under the corresponding provisions of this Act and shall continue in force accordingly unless and until superseded by anything done or by any action taken under this Act:

Provided further that all such courses that are being conducted by the National Board of Examinations shall continue till the Central Government on the advice of the Commission notifies the constitution of the Board under this Act.

(2) The Central Government may, if considered necessary by notification, take such appropriate measures as may be necessary for smooth transition of repealed Councils to the corresponding new Councils and the existing National Board of Examination to the Board under this Act.

Resolution of
difference of
opinion by
Joint
Mechanism.

120. In case of any difference of opinion with the National Commission for Higher Education constituted under the National Commission for Higher Education and Research Act, 2011, the same may be referred to the Joint Mechanism constituted under section 52 of the National Commission for Higher Education and Research Act, 2011 for resolution of such difference of opinion in accordance with the provisions of that Act.

THE FIRST SCHEDULE

[See sections 2(i) and (o) and section 41(1)]

<i>Existing Council</i>	<i>Corresponding new National Council</i>
(1)	(2)
The Medical Council of India for medicine	The Medical Council of India for medicine
The Dental Council of India for dentistry	The Dental Council of India for dentistry
The Nursing Council of India for nursing	The Nursing Council of India for nursing
The Pharmacy Council of India for pharmacy	The Pharmacy Council of India for pharmacy

THE SECOND SCHEDULE

SCHEDULE OF MEDICAL QUALIFICATIONS

[See section 2 (zc) (a) and section 18]

Part 1—Graduate Medical Qualifications

Graduate Medical Courses—Courses where entry is permitted after passing the 10+2 examination;

Part 2—Post Graduate Medical Qualifications

Post Graduate Medical Courses—Courses where entry is permitted after passing the graduate medical examination;

Part 3—Super Speciality Medical Qualifications

Super Speciality Medical Courses—Courses where entry is permitted after passing the Post Graduate Medical examination;

Part 4—Doctoral Medical Qualifications

Doctoral Medical Courses—Courses where entry is permitted after passing the Post graduate medical examination;

Part 5—Post Doctoral Medical Qualifications

Post Doctoral Medical Courses—Courses where entry is permitted after passing the Doctoral medical examination;

Part 6—Foreign Medical Qualifications

THE THIRD SCHEDULE**SCHEDULE OF DENTAL QUALIFICATIONS***[See section 2 (zc) (b) and section 18]***Part 1—Graduate Dental Qualifications**

Graduate Dental Courses—Courses where entry is permitted after passing the 10+2 examination;

Part 2—Post Graduate Dental Qualifications

Post Graduate Dental Courses—Courses where entry is permitted after passing the graduate Dental examination;

Part 3—Doctoral Dental Qualifications

Doctoral Dental Courses—Courses where entry is permitted after passing the Post graduate Dental examination;

Part 4—Post Doctoral Medical Qualifications

Post Doctoral Dental Courses—Courses where entry is permitted after passing the Doctoral Dental examination;

Part 5—Foreign Dental Qualifications

THE FOURTH SCHEDULE

SCHEDULE OF NURSING QUALIFICATIONS

[See section 2 (zc) (c) and section 18]

Part 1—Graduate Nursing Qualifications

Graduate Nursing Courses—Courses where entry is permitted after passing the 10+2 examination;

Part 2—Post Graduate Nursing Qualifications

Post Graduate Dental Courses—Courses where entry is permitted after passing the graduate Nursing examination;

Part 3—Doctoral Nursing Qualifications

Doctoral Dental Courses—Courses where entry is permitted after passing the Post graduate Nursing examination;

Part 4 – Foreign Nursing Qualifications

THE FIFTH SCHEDULE**SCHEDULE OF PHARMACY QUALIFICATIONS**

[See section 2 (zc) (d) and section 18]

Part 1—Graduate Pharmacy Qualifications

Graduate Pharmacy Courses—Courses where entry is permitted after passing the 10+2 examination;

Part 2—Post Graduate Pharmacy Qualifications

Post Graduate Pharmacy Courses—Courses where entry is permitted after passing the graduate Pharmacy examination;

Part 3—Doctoral Pharmacy Qualifications

Doctoral Pharmacy Courses—Courses where entry is permitted after passing the Post graduate Pharmacy examination;

Part 4 – Foreign Pharmacy Qualifications

THE SIXTH SCHEDULE

SCHEDULE OF PARAMEDICAL QUALIFICATIONS

[See section 2 (zc) (e) and section 18]

Part 1—Graduate Paramedical Qualifications

Graduate Paramedical Courses—Courses where entry is permitted after passing the 10+2 examination;

Part 2—Post Graduate Paramedical Qualifications

Post Graduate Paramedical Courses—Courses where entry is permitted after passing the graduate Paramedical examination;

Part 3—Foreign Paramedical Qualifications

THE SEVENTH SCHEDULE

PROFESSIONAL MISCONDUCT

[See section 68]

PART I

A health practitioner shall be deemed to be guilty of professional misconduct, if he—

(1) allows any person to practice in his name as a health professional unless such person is also a health practitioner and is in partnership with or employed by him;

(2) pays or allows or agrees to pay or allow, directly or indirectly, any share in the fees or profits of his professional business, to any person other than a member of the National Council or the State Council or a partner or a retired partner or the legal representative of a deceased partner, or a member of any other professional body or with such other persons having the recognised qualifications for the purpose of rendering such professional services from time to time in or outside India.

Explanation.—In this clause, “partner” includes a person residing outside India with whom a health practitioner has entered into partnership which is not in contravention of clause (4);

(3) accepts or agrees to accept any part of the profits of the professional work of a person who is not a member of the National Council or the State Council:

Provided that nothing herein contained shall be construed as prohibiting a member from entering into profit sharing or other similar arrangements, including receiving any share or commission in the fees, with a member of the National Council or State Council or other person having the recognised qualifications referred to in clause (2);

(4) enters into partnership, in or outside India, with any person other than a health practitioner or such other person who is a member of any other professional body having the recognised qualifications, including a resident, who but for his residence abroad would be entitled to be enrolled as a member of the National Council or the State Council;

(5) secures any professional business, either through the services of a person who is not an employee of such health professional or who is not his partner or by means which are not open to a health professional:

Provided that nothing herein contained shall be construed as prohibiting any arrangement permitted in terms of clauses (2) and (3);

(6) solicits patients or professional work, either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means:

Provided that nothing herein contained shall be construed as preventing or prohibiting—

(i) any health professional from applying or requesting for or inviting or securing professional work from another health practitioner;

(ii) a member from responding to tenders or enquiries issued by various users of professional services or organisations from time to time and securing professional work as a consequence;

(7) advertises his professional attainments or services, uses any designation or expressions other than health professional on professional documents, visiting cards, letterheads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or by the Commission or of any other

institution that has been recognised by the Central Government or may be recognised by the Commission:

Provided that a health practitioner may advertise through a write up setting out the services provided by him or his health Institute and particulars of his health Institute subject to such guidelines as may be issued by the Commission;

(8) accepts a position as a health practitioner previously held by another health practitioner without first communicating with him in writing;

(9) charges or offers to charge, accepts or offers to accept, in respect of any professional employment, fees which are based on a percentage of profits or which are contingent upon the findings, or result of such employment, except as permitted under the Act or the rules or regulations made thereunder;

(10) engages in any business or occupation other than health profession unless permitted by the Commission so to engage:

Provided that nothing contained herein shall disentitle a health professional from being a director of a company except as provided in the Companies Act, 1956;

(11) allows a person not being a member of the National Council or the State Council, or a member not being his partner to sign on his behalf or on behalf of his health Institute, anything which he is required to certify as a health professional; or any other statements relating thereto;

(12) discloses information acquired in the course of his professional engagement to any person other than his patient so engaging him, without the consent of his patient, or otherwise than as required by any law for the time being in force;

(13) certifies or submits in his name, or in the name of his health Institute, a report of an examination of the matters relating to his health and related statements unless the examination of such statements has been made by him or by a partner or an employee in his health Institute or by another health practitioner;

(14) permits his name or the name of his health Institute to be used in connection with any report or statement contingent upon future treatment in a manner which may lead to the belief that he vouches for the accuracy of the diagnosis;

(15) fails to disclose a material fact known to him in his report or diagnosis but the disclosure of which is necessary in making such report or statement, where he is concerned with such report or statement in a professional capacity;

(16) fails to report a material mis-statement known to him and with which he is concerned in a professional capacity;

(17) does not exercise due diligence, or is grossly negligent in the conduct of his professional duties;

(18) fails to obtain sufficient information which is necessary for expression of an opinion or its exceptions are sufficiently material to negate the expression of an opinion;

(19) fails to invite attention to any material departure from the generally accepted procedure relating to the health practice;

(20) fails to keep moneys of his patient other than fees or remuneration or money meant to be expended in a separate banking account or to use such moneys for purposes for which they are intended within a reasonable time.

PART II

A health professional shall be deemed to be guilty of professional misconduct, if he—

(1) does not maintain the health records of his indoor patients for a period of three years or refuses to provide the same within a period of 72 hours after the patient or his authorised representative makes a request for it;

(2) does not display the registration number accorded to him by the National Council or the State Council, or maintain prescriptions and certificates, etc., issued by him, in his clinic;

(3) abuses his professional position by committing adultery or improper conduct with a patient or maintaining an improper association with a patient;

(4) is convicted by a court of law for offences involving moral turpitude or criminal acts;

(5) conducts sex determination test with the intent to terminate the life of a female foetus developing in her mother's womb, unless there are other absolute indications for termination of pregnancy as specified in the Medical Termination of Pregnancy Act, 1971;

(6) signs or issues certificates, notification, reports and other documents of similar character in his professional capacity for subsequent use in the courts or for administrative purposes which is untrue, misleading or improper;

(7) contravenes the provisions of the Drugs and Cosmetics Act, 1940 and the rules or regulations made thereunder by prescribing steroids or psychotropic drugs when there is no absolute medical indication; or sells Schedule 'H' and 'L' drugs and poisons to the public, except to his patient;

(8) performs or enables unqualified person to perform an abortion or any illegal operation for which there is no medical, surgical or psychological indication;

(9) issues certificates of efficiency in modern medicine to unqualified or non-medical person:

Provided that nothing in this clause shall restrict the proper training and instruction of *bona fide* students, midwives, dispensers, surgical attendants, or skilled mechanical and technical assistants and therapy assistants under the personal supervision of the health professional;

(10) contributes to the press articles and give interviews regarding diseases and treatments which may have the effect of advertising himself or soliciting practices:

Provided that nothing in this clause shall restrict him from writing to the press under his own name on matters of public health, hygienic living or to deliver public lectures, give talks on the radio or television or internet chat;

(11) advertises about an institution run by him such as a maternity home, nursing home, private hospital, rehabilitation centre or any type of training institution in the press, and such advertisements contains anything more than the name of the institution, type of patients admitted, type of training and other facilities offered and the fees;

(12) uses an unusually large sign board containing anything other than his name, qualifications obtained from a University or a statutory body, titles and name of his speciality, registration number including the name of the National Council or the State Council under which registered, or affixes a sign-board on a chemist's shop or in places where he does not reside or work;

(13) discloses the secrets of a patient that have been learnt in the exercise of his profession except—

(i) in a court of law under orders of the Court; or

(ii) in circumstances where there is a serious and identified risk to a specific person or community; or

(iii) in case of communicable or notifiable diseases, in which case public health authorities shall be informed immediately;

(14) refuses on religious grounds alone, to give assistance in or conduct of sterility, birth control, circumcision and medical termination of pregnancy when there is medical indication, unless the health practitioner feels himself incompetent to do so;

(15) fails to obtain in writing, before performing an operation, the consent from the husband or wife, parent or guardian in the case of minor, or the patient himself, as the case may be, or in an operation which may result in sterility, the consent of both husband and wife;

(16) publishes photographs or case reports of his patients without their permission, in any medical or other journal in a manner by which their identity could be made out:

Provided that if the identity is not to be disclosed, the consent is not needed;

(17) uses touts or agents for procuring patients;

(18) claims to be a specialist without a special qualification in that branch;

(19) undertakes invitro fertilisation or artificial insemination without the informed consent in writing of the female patient, her spouse as well as the donor, with sufficient information about the purpose, methods, risks, inconveniences, disappointments of the procedure and possible risks and hazards;

(20) conducts clinical drug trials or other research involving patients or volunteers in violation of the guidelines of the Indian Council of Medical Research;

(21) being a health professional posted in rural area, is found absent on more than two occasions during inspection by the Head of the District Health Authority or the Chairman, Zila Parishad and the same is recommended to the National Council or the State Council, as the case may be, by the State Government for action;

(22) being a health professional posted in a health college or institution both as teaching faculty or otherwise, is found absent on more than two occasions during the assigned duty hours and the same is certified by the Principal or Medical Superintendent and forwarded through the State Government to National Council or the State Council, as the case may be, for action.

STATEMENT OF OBJECTS AND REASONS

The National Commission for Human Resources for Health Bill, 2011 seeks to consolidate the law in certain disciplines of health sector and promote human resources in health sector and provide for mechanism for the determination, maintenance, co-ordination and regulation of standards of health education throughout the country to ensure adequate availability of human resources in all States and for the said purpose to establish the National Commission for Human Resources for Health to supervise and regulate professional Councils in various disciplines of health sector.

2. At present various disciplines of health are supervised and regulated by their respective professional Council's, namely, the Medical Council of India, the Dental Council of India, the Pharmacy Council of India and the Indian Nursing Council. The broad vision of human resources in terms of quantity, composition and quality required for enabling the country's health system to provide health care for all, is hidden from the perspective of these individual regulatory bodies. Any effort to make piecemeal changes in the statutes of the existing regulatory bodies is not likely to bring any substantial reform in the field of health education and services. To address these issues it is felt necessary to establish a National Commission for Human Resources for Health to provide an institutional framework to promote availability of health care providers in all parts of the country to reduce shortages, standardise quality and bridge the uneven distribution of existing work force in the health sector.

3. In view of the above, it is proposed to enact a law, namely, the National Commission for Human Resources for Health Bill, 2011 which, *inter-alia*, makes provision that the Central Government shall by notification establish the National Commission for Human Resources for Health with three constituent bodies, namely the National Board of Health Education, the National Evaluation and Assessment Committee and the National Councils, with distinct responsibilities for regulating educational standards; enforcing the standards and assuring quality and governing medical practice along ethical norms. It would also be the task of the Commission to ensure effective use of linkages in the entire health system, act as the controlling and co-ordinating agency that ensures accountability in the system and to facilitate interconnectivity among and between disciplines to meet the needs of a diverse and growing health system in the country.

4. The National Commission for Human Resources for Health Bill, 2011 *inter alia*, provides for the following, namely:—

(a) to establish the National Commission for Human Resources for Health consisting of a Chairperson, four whole-time members and eight part-time members to be appointed by the Central Government on the recommendations of the Selection Committee;

(b) to enable the Commission to formulate action plans for development of human resources for health in accordance with the policy and priorities laid down by the Central Government from time to time and to determine, maintain and co-ordinate the minimum standards of and promote the human resources, in discipline of health education and training commensurate with the requirement, of such resources in different States and Union territories;

(c) to constitute the National Board for Health Education in the place of the National Board of Examinations to take measures to facilitate and promote academic studies and research in emerging areas of health education with focus on professional health education and to ensure uniform augmentation of trained specialists and super specialists to achieve excellence in these and connected areas;

(d) to constitute the National Evaluation and Assessment Committee to take measures to develop and regulate the process of evaluation and assessment of institutions imparting health education and programmes conducted therein, and monitor the functioning of agencies recommended by the Commission;

(e) to establish new National Councils to be known as the Medical Council of India for medicine, the Dental Council of India for dentistry, the Nursing Council of India for nursing, the Pharmacy Council of India for pharmacy in the place of existing Councils and also to establish a new Paramedical Council of India for the discipline of paramedics and to confer powers upon the State Governments to constitute the respective State Councils;

(f) to enable the National Councils and the State Councils to take measures to enrol persons having recognised qualifications to enable them to practice in respective discipline of health and to regulate the profession of respective discipline of health;

(g) to constitute a fund to be called "the National Commission for Human Resources for Health Fund" ;

(h) to transfer the assets, liabilities, rights, duties, etc., of the existing Councils to the Commission;

(i) to provide for punishment, penalty or both for contravening the provisions of the proposed legislation;

(j) to empower the Central Government to supersede the Commission, Board, Committee or National Council and also to empower the State Governments to supersede the State Councils;

(k) to repeal the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956 and to dissolve the Nursing Council of India, the Pharmacy Council of India, the Dental Council of India and the Medical Council of India.

5. The notes on clauses explain in detail the various provisions contained in the Bill.

6. The Bill seeks to achieve the above objects.

GHULAM NABI AZAD.

Notes on clauses

Clause 2.—This clause defines various expressions used in the Bill. It, *inter alia*, defines expressions “appropriate statutory regulatory body”, “approved institution”, “code of ethics”, “corresponding new National Council”, “discipline of health”, “evaluation and assessment”, “foreign qualifications”, “health professional”, “National Register”, “recognised qualification”, “trained specialist” and “university” used in the Bill.

Clause 3.—This clause relates to establishment of the National Commission for Human Resources for Health.

It provides that the Central Government shall, by notification, establish a body to be called the National Commission for Human Resources for Health to exercise the powers conferred on, and to perform the functions assigned to, it under the proposed legislation. The Commission shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of the proposed legislation, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued.

It further provides for the composition of the Commission. The Commission shall consist of a Chairperson, four whole-time members; and eight part-time members to be appointed, by the Central Government, on the recommendations of the Selection Committee constituted under clause 5.

It also provides that the president of the National Board for Health Education, the president of the National Evaluation and Assessment Committee, the president of the each National Council and the Chairperson or a Member of the National Commission for Higher Education and Research of the proposed legislation—Members, *ex officio* and all the Members including *ex officio* Members shall have voting rights.

Clause 4.—This clause provides for qualifications for appointment of Chairperson and Members of the Commission.

It provides that the Chairperson shall be a person of eminence, integrity, administrative capability and outstanding ability with a post graduate degree in the discipline of medical science from a university, and having not less than twenty-five years experience in the profession, out of which at least fifteen years shall be in a leadership role, in the area of health care delivery, growth and development of modern medicine or medical education and the other Members shall be persons of eminence, integrity, administrative capability and outstanding ability with a post graduate degree in the discipline of medical education, dental education, nursing education, pharmacy education, public health, management, science and technology, or law from a university, and having not less than twenty years experience in the profession, out of which at least fifteen years shall be in a leadership role, in the area of health care delivery, growth and development of modern medicine or medical education.

It further provides that out of twelve Members, four whole-time Members shall be appointed by the Central Government from the disciplines of medicine, dentistry, nursing, pharmacy and paramedics; and eight part-time Members shall be appointed from the disciplines of medicine, dentistry, nursing, pharmacy, paramedics, management, science and technology and law and no person, who is not a citizen of India, shall be eligible to be appointed as the Chairperson or a Member.

Clause 5.— This clause provides for constitution of the Selection Committee.

It provides that the Central Government shall constitute a Selection Committee consisting of a person of eminence having qualification and experience of at least twenty-five years in medical profession as Chairperson and five other experts of eminence from the discipline of medical and allied health sciences, management, science and technology having qualification and experience of at least twenty years in the discipline, as members, in such manner as may be prescribed.

It further provides that the Secretary to the Government of India in charge of the Union Ministry of Health (Department of Health and Family Welfare) shall be the Convenor and the term of the Selection Committee shall be in such manner as may be prescribed.

It also provides that the Selection Committee shall finalise the selection of the Chairperson and Members of the Commission within two months from the date on which the reference is made to it by the Central Government in this behalf and shall recommend a panel of two names for every vacancy referred to it and before recommending any person for appointment as a Chairperson or a Member of the Commission, the Selection Committee shall satisfy itself that such person does not have any financial or other conflict of interest, which is likely to affect prejudicially his functions as Chairperson or Member. However, no appointment of the Chairperson or Member of the Commission shall be invalid merely by reason of any vacancy in the Selection Committee and it may regulate its own procedure.

It also provides that the Central Government shall initiate the process of appointment in respect of any vacancy due to arise in the office of the Chairperson or of other Members of the Commission, six months prior to the date of arising of such vacancy. However, in case a vacancy arises in the Selection Committee for the reason of death or removal, or resignation from office, such vacancy shall be filled expeditiously, within six months from the date on which the vacancy has arisen.

Clause 6.— This clause provides for the tenure, terms and conditions of service of Chairperson and Members.

It, *inter alia*, provides the Chairperson and other Members of the Commission shall hold office for a term of four years from the date on which he enters upon his office and be eligible for re-appointment for another term. The Chairperson or Member shall not hold office after he has attained the age of seventy years. The Chairperson and other Members shall hold office during the pleasure of the Central Government.

It further provides that the salary and allowances payable to and other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed.

Clause 7.— This clause provides for declaration of interest.

It provides that the Chairperson and other Members, shall immediately after entering office and every year thereafter, make a declaration to the extent of their interest, whether direct or indirect and whether financial or otherwise, in any health institution or any other institution which comes under the purview of the Commission and the same shall be displayed on the website of the Commission.

Clause 8.— This clause relates to restrictions on re-employment.

It provides that the Chairperson and other Members, on ceasing to hold office shall not, for a period of two years, accept any employment (including as consultant or expert or otherwise) in any health educational institution whose matter has been dealt with by such Chairperson or Member, as the case may be, or has been before the Commission when he held office as such Chairperson or Member. It further provides that nothing shall prevent the Chairperson or a Member, to accept any employment in any health educational institution controlled or maintained by the Central Government or the State Government.

Clause 9.— This clause provides for general superintendence, direction and management of affairs.

It provides that subject to the other provisions of the proposed legislation, the general superintendence, direction and control of the administration shall vest in the Chairperson.

Clause 10.— This clause provides for Member to act as Chairperson, or to discharge his functions, in certain circumstances.

It provides that in the event of the occurrence of any vacancy in the office of the Chairperson by reason of death, removal, suspension or resignation, the senior most whole time Member shall act as the Chairperson till such time the Chairperson is appointed, to fill the vacancy. It further provides that when the Chairperson is unable to discharge his functions owing to absence on account of leave or otherwise, the senior most whole-time Member shall discharge the functions of the Chairperson till the Chairperson is able to discharge his functions.

Clause 11.—This clause provides for resignation of Chairperson or Member.

It provides that the Chairperson or a Member may, by notice given in writing under his hand of not less than a period of thirty days, addressed to the Central Government, resign from his office. It further provides that the Chairperson or the Member shall, unless permitted by the Central Government to relinquish office sooner, continue to hold office until the expiry of a period of thirty days from the date of receipt of such notice or until a person duly appointed as his successor enters upon office or until the expiry of his term of office, whichever is earliest.

Clause 12.—This clause provides for removal and suspension of Chairperson or Member from office in certain circumstances.

It provides that the Central Government may, by order, remove from office the Chairperson or any Member, who, has been adjudged an insolvent; or being a whole-time Member, has engaged at any time, during his term of office, in any paid employment; or has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or has become physically or mentally incapable of acting as such Chairperson or other Member; or is of unsound mind and stands so declared by a competent court; or has been removed or dismissed from the service or office of the Central Government or of a State Government or from a body owned or controlled by the Central Government or a State Government or from any Central or State statutory body; has acquired such financial or other interest as is likely to affect prejudicially his functions as Chairperson or other Member, as the case may be; or has so abused his position as to render his continuance in office prejudicial to public interest; or has been guilty of proved misconduct; or has been guilty of proved conflict of interest in the discharge of his functions. It further provides that the Chairperson or any Member shall not be removed from his office, unless he has been given a reasonable opportunity of being heard in the matter. It also provides that the Central Government may, if it considers necessary in the public interest, suspend such Chairperson or other Member.

Clause 13.—This clause provides for meetings of the Commission.

It provides that the Commission shall meet at least twice every month at such time and place as it may appoint and the Chairperson shall preside over such meetings. It further provides that the decisions of the Commission shall be by consensus, failing which by a majority of votes of Members present and voting and in the event of equality of votes, the Chairperson or in his absence, the Member presiding shall have a second or casting vote. It also provides that the quorum of a meeting of the Commission shall be seven members and the Commission may make regulations for the conduct of business at its meetings.

Clause 14.—This provides for vacancies, etc., not to invalidate proceedings of Commission.

This clause provides that no act or proceeding of the Commission shall be invalid merely by reason of— (a) any vacancy in, or any defect in the constitution of the Commission; or (b) any defect in the appointment of a person as a Member of the Commission; or (c) any irregularity in the procedure of the Commission not affecting the merits of the case.

Clause 15.—This clause provides for appointment of the Chief Executive Officer and other officers and employees of Commission.

This clause confers power upon the Central Government to appoint a Chief Executive Officer of the Commission, not below the rank of Additional Secretary to the Government of India, who shall be the Member-Secretary of the Commission, for a fixed term of four years who shall not be eligible for re- appointment.

It further provides that the Chief Executive Officer, shall discharge such functions as may be specified by regulations made by the Commission or may be assigned to him by the Commission from time to time and, shall report to the Commission, through the Chairperson, on actions taken by him in performance of his duties.

It also provides that the Commission may, with the prior approval of the Central Government, appoint such officers and other employees as it considers necessary for the efficient discharge of its functions under the proposed legislation. It also provides that the salaries and allowances and other terms and conditions of service of the Chief Executive Officer and other officers and employees of the Commission shall be such as may be prescribed.

Clause 16.— This clause provides for the powers and functions of the Commission.

This clause specifies the measures to be taken by the Commission, subject to the provisions of the proposed legislation, to determine, maintain and coordinate the standards of and promote the human resources, in discipline of health education and training commensurate with the requirement, of such resources in different States and Union territories. The functions to be performed by the Commission, *inter alia*, shall be to, carry out studies and collect data required to assess the needs and requirements of human resources for health in different States and Union territories; assess the requirement (including the number, type and geographical location) of health training facilities for education and training in medical and allied discipline; formulate action plans for development of human resources for health in accordance with the policy and priorities laid down by the Central Government from time to time; formulate a plan for financial and other resources required for creation of human resources; make recommendations on the measures to strengthen the health care delivery, operational efficiency and health care infrastructure; co-ordinate existing health care infrastructure in Central and State Government for effective utilisation thereof; facilitate co-ordination among bodies or Councils constituted under the proposed legislation, conduct or cause to conduct their social audit and obtain public feedback on their performance and achievements; grant permission for establishing of health educational institution, ensure compliance of its terms and conditions, or withdraw such permission; regulate, in accordance with the law, for the time being in force, the entry and operation of foreign health educational institutions if permitted under the law for the time being in force in consultation with the National Board or such other authority as may be specified by the Central Government; conduct the elections to the National Councils established under proposed legislation; promote and regulate inter-professional co-operation amongst health professions; specify by regulations the continuous medical education and the courses, workshops and training activities; provide such grants and moneys to the Board, Committee and National Council as they may require for efficient discharge of their powers and functions under proposed legislation; transfer such assets, properties or liabilities to the Board, Committee or National Council, as the case may be, as it may consider necessary; provide such officers and other employees to the Board, Committee or National Council, as the case may be, as they may require for efficient discharge of their powers and functions under the proposed legislation; perform such other functions as may be prescribed.

It further provides that the Commission shall exercise the powers and discharge the functions specified under this clause in such manner which does not interfere with the autonomous and self-regulatory nature of universities or institutions.

Clause 17.— This clause provides for establishment of the Institution for imparting health education or new course of study.

This clause provides that, notwithstanding anything contained in the proposed legislation or any other law for the time being in force, provides for— (a) no person shall, without obtaining letter of permission from the Commission, establish an institution for a course of study or training in the discipline of health, (including a post-graduate or doctoral or Post doctoral course of study or training), for grant of recognised qualification; and (b) no institution, which has been granted permission under sub-clause (1), shall increase its admission capacity in any course of study or training (including a post-graduate or doctoral or Post doctoral course of study or training), without obtaining the letter of permission from the Commission. However, any person who has been granted permission for establishment of the health educational institution or an institution which has been granted permission to increase of its admission capacity in course of study or training under the provisions of the

Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956 and the rules and regulations made thereunder, or any other law for the time being in force, shall be deemed to be the health educational institution established under the provisions of the proposed legislation or deemed to have validly increased their admission capacity and the qualifications granted by such institutions shall be the recognised qualification for the purposes of the proposed legislation.

It further provides that every person shall, for the purpose of obtaining permission under sub-clause (1), submit to the Commission a scheme in accordance with the provisions of sub-clause (3) and the Commission shall refer the scheme to the National Evaluation and Assessment Committee for its recommendations and the scheme referred to in sub-clause (2) shall be in such form and contain such particulars and be preferred in such manner and accompanied with such fees as may be specified by regulations made by the Commission.

It also provides that on receipt of the scheme, the Committee may obtain such other particulars as may be considered necessary by it from the applicant, and thereafter, it may, (a) if the scheme is defective and does not contain any required particulars, give a reasonable opportunity to the person concerned for making a written representation and it shall be open to such person to rectify the defects, if any, specified by it; and (b) consider the scheme, having regard to the factors referred to in sub-clause (8), and submit the scheme together with its recommendations thereon to the Commission.

It also provides that the Commission may, after considering the scheme and the recommendations of the Committee under sub-clause (4) and after obtaining, where necessary, such other particulars as may be considered necessary by it from the applicant, and having regard to the factors referred to in sub-clause (8), either approve (with such conditions, if any, as it may consider necessary) or disapprove the scheme and any such approval shall be a permission under sub-clause (1). However, no scheme shall be disapproved by the Commission without giving such person a reasonable opportunity of being heard and nothing shall prevent any person, whose scheme has not been approved by the Commission, to submit a fresh scheme and the provisions of this clause shall apply to such scheme, as if such scheme has been submitted for the first time under sub-clause (2).

It also provides that where no order passed by the Commission has been communicated to the person submitting the scheme, within a period of one year from the date of submission of such scheme to the Commission under sub-clause (2), the scheme shall be deemed to have been approved by the Commission in the form in which it had been submitted, and, accordingly, the permission of the Commission required under sub-clause (1) shall also be deemed to have been granted and in computing the period specified in sub-clause (6), the time taken by the person concerned submitting the scheme, in furnishing any particulars called for by the Committee or by the Commission, shall be excluded.

It also provides that the Committee, while making its recommendations under clause (b) of sub-clause (4) and the Commission, while passing an order, either approving or disapproving the scheme under sub-clause (5), shall have due regard to the factors such as, (a) whether the proposed health educational institution or the existing health educational institution seeking to open a new or higher course of study or training or increase its admission capacity, would be in a position to offer the course of study or training in the discipline of health (including a post graduate or doctoral or post doctoral course of study or training) with the minimum standards of health education as specified by the Board under the proposed legislation; (b) whether the person seeking to establish a health educational institution or seeking to open a new or higher course of study or training or to increase its admission capacity has adequate financial resources; (c) whether necessary facilities in respect of staff, equipment, accommodation, training and other facilities to ensure proper functioning of the health educational institution or conducting the new course of study or training or accommodating the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme; (d) whether adequate hospital facilities, having regard to the number of students likely to attend such health educational

institution or course of study or training or as a result of the increased admission capacity have been provided or would be provided within the time-limit specified in the scheme; (e) whether any arrangement has been made or programme drawn to impart proper training to students likely to attend such health educational institution or course of study or training by person having the recognised medical qualifications; (f) the requirement of manpower in the field of practice of medicine; and (g) any other factors as may be prescribed.

It also provides that where the Commission passes an order either approving or disapproving a scheme under this section, a copy of the order shall be delivered to the person concerned and explains that the expression "person" used in this clause includes any university or a trust or other body corporate, but does not include the Central Government or a State Government.

Clause 18.— This clause provides for recognition of medical qualifications granted by the health educational institutions in India.

It provides that the educational qualifications granted by any health educational institution in India which are included in the Second Schedule or Third Schedule or Fourth Schedule or Fifth Schedule or Sixth Schedule, as the case may be, shall be recognised qualifications of the respective discipline of health for the purposes of the proposed legislation. However, any qualification recognised under the provisions of the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956 and the rules and regulations made thereunder, shall continue to be the recognised qualifications of the respective discipline of health for the purposes of the proposed legislation, unless such qualifications are derecognised by the amendment of the Schedule under the proposed legislation.

It further provides that any health educational institution in India, which grants any qualification in the discipline of health not included in the Second Schedule or Third Schedule or Fourth Schedule or Fifth Schedule or Sixth Schedule, as the case may be, may apply to the Commission to have such qualification recognised, and the Commission, after consulting the Committee, may recommend to the Central Government to amend the Second Schedule or Third Schedule or Fourth Schedule or Fifth Schedule or Sixth Schedule, as the case may be, so as to include such qualification therein and any notification amending any of the said Schedules may also direct that an entry shall be made in the last column of the Second Schedule or Third Schedule or Fourth Schedule or Fifth Schedule or Sixth Schedule, as the case may be, against such qualification declaring that it shall be a recognised qualification only when granted after a specified date.

Clause 19.— This clause provides for non-recognition of qualifications in certain cases.

It provides that no qualification granted by any health educational institution to any student of such institution shall be recognised qualification for the purposes of the proposed legislation, unless such institution has been established with the approval of the Commission in accordance with the provisions of the proposed legislation or rules or regulations made thereunder and where any health educational institution offers a new or higher course of study or training (including a post-graduate course of study or training), such qualification shall not be a recognised qualification for the purposes of the proposed legislation, unless such course of study or training offered has been approved by the Commission before offering the same to the students.

It further provides that where any health educational institution increases its admission capacity in any course of study or training (including a post-graduate course of study or training), such qualification granted to any student or such institution on the basis of the increase in its admission capacity shall not be a recognised qualification for the purposes of the proposed legislation, unless such increase in its admission capacity in any course of study or training offered has been approved by the Commission before offering the same to the students.

Clause 20.—This clause provides for entry and operation of foreign health educational institutions.

This clause provides that the Commission shall regulate the entry and operation of foreign health educational institutions in consultation with the National Board and in accordance with the law, for the time being in force. However, in case no such law is in force, the Central Government shall regulate the entry and operation of foreign health institutions in consultation with the Board till such law comes into force.

Clause 21.—This clause provides for withdrawal of recognition.

This clause provides that when, upon recommendation of the Committee or the Board, it appears to the Commission that, (a) the courses of study and examination to be undergone in, or the proficiency required from candidates at any examination held by any university or other health institution for an approved course in health education; or (b) the faculty staff, equipment, accommodation, training and other facilities for instruction and training provided in such university or other health educational institution, or in any college or other institution affiliated to any such university, do not conform to the standards specified by the Commission, the Commission may, after making such inquiry as it may consider necessary, for reasons to be recorded in writing, withdraw recognition of the course or qualification in respect of the university or other health institution, or college or other institution affiliated to such university, as the case may be, with such cut-off date as it thinks fit. However, no such recognition shall be withdrawn unless the university or the institution or college, as the case may be, has been given a reasonable opportunity of being heard.

Clause 22.— This clause provides for fees.

It provides that the Commission may levy such fees and other charges in respect of such functions as may be specified by regulations made by the Commission.

Clause 23.— This clause provides for constitution of National Board for Health Education.

It empowers the Central Government, by notification, constitute a Board to be known as the 'National Board for Health Education' to assist the Commission in discharge of its powers and functions for the purposes of health education.

Clause 24.—This clause provides for the composition of the Board.

The Board shall consist of a President, two whole-time members and four part-time members, to be appointed by the Central Government on the recommendation of the selection Committee constituted under clause 25.

It further provides that the Chairperson or a Member of the National Commission for Higher Education and Research referred to in section 5 of the National Commission for Higher Education and Research Act, 2011—Member, *ex officio*.

It also provides that the President and whole-time members shall be chosen from the persons possessing a post graduate degree in the discipline of medicine or medical education from a recognised university or health institutions, having at least fifteen years of standing in the profession or teaching and training, out of which seven years of experience shall be in the discipline of medical education, training, curriculum design or development and conduct of examinations and the part-time members shall be chosen from persons possessing a post graduate degree in the discipline of medical education from a recognised university or medical institution having at least twelve years of standing in the profession from the discipline of health or health education out of which seven years of experience shall be in education, training, curriculum design or development and conduct of examinations in the discipline of health.

Clause 25.—This clause provides for the Selection Committee for selection of the President and members of the Board and committee.

It provides that the Central Government shall constitute a Selection Committee for appointment of the President and members of the Board and the Committee, consisting of, a person of eminence having qualification and experience of at least twenty years in medical profession as Chairperson; three other experts of eminence from the discipline of medical and allied health sciences, management, science and technology having qualification and experience of at least fifteen years in the discipline, as members, to be appointed in such manner as may be prescribed.

It further provides that the Secretary to the Government of India in charge of the Union Ministry of Health (Department of Health and Family Welfare) shall be *ex officio* member of the Selection Committee and the Chairperson of the Commission shall be the Convenor and

It also provides that the term of the Selection Committee shall be such as may be prescribed and the Selection Committee shall finalise the selection of the President and members of the Board and the Committee within two months from the date on which the reference is made to it by the Central Government in this behalf and the Selection Committee shall recommend a panel of two names for every vacancy referred to it.

It also provides that before recommending any person for appointment as a President or a member of the Board or the Committee, the Selection Committee shall satisfy itself that such person does not have any financial or other conflict of interest, which is likely to affect prejudicially his functions as President or member of the Board or the Committee, as the case may be and no appointment of the President or member of the Board or the Committee shall be invalid merely by reason of any vacancy in the Selection Committee.

It also provides that the Selection Committee may regulate its own procedure and the Central Government shall initiate the process of appointment in respect of any vacancy due to arise in the office of the President or of other members of the Board or Committee, six months prior to the date of arising of such vacancy and in case a vacancy arises in the Selection Committee for the reason of death or removal, or resignation from office, such vacancy shall be filled expeditiously, within six months from the date on which the vacancy has arisen.

Clause 26.—This clause provides for the transitory provisions relating to Board.

It provides that on and from the date of constitution of the Board, (a) the National Board of Examinations registered under the Societies Registration Act, 1860 shall be dissolved; (b) any reference to the existing National Board of Examinations in any law other than the proposed legislation or in any contract or other instrument shall be deemed as a reference to the Board; (c) all properties and assets, movable and immovable, of, or belonging to, the existing National Board of Examinations, shall vest in the Board; (d) all rights and liabilities of the existing National Board of Examinations shall be transferred to, and be the rights and liabilities of, the Board; (e) all debts, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the existing National Board of Examinations immediately before that date, for or in connection with the purpose of the said existing National Board of Examinations shall be deemed to have been incurred, entered into or engaged to be done by, with or for, the Board; (f) all sums of money due to the existing National Board of Examinations immediately before that date shall be deemed to be due to the Board; and (g) all suits and other legal proceedings instituted or which could have been instituted by or against the existing National Board of Examinations immediately before that date may be continued or may be instituted by or against the Board.

Clause 27.—This clause provides for the appointment and terms and conditions of office of the President and members of the Board.

It provides that any person appointed as the President or a member shall hold office for a term of four years from the date on which he enters upon his office or till the date he attains the age of sixty-five years, whichever is earlier and be eligible for re-appointment for another term and such President or a member shall hold office during the pleasure of the Central Government.

It further provides that the salary and allowances payable to and other terms and conditions of service of the President and other members shall be such as may be prescribed.

Clause 28.—This clause provides for the Executive Director and other officers and employees of Board.

It empowers the Board to appoint an Executive Director to perform such functions as may be assigned to him and with the previous approval of the Commission appoint such other officers and employees as the Board considers necessary for the efficient discharge of its functions under proposed legislation.

It further provides that the number of, the salaries and allowances payable to, and the other terms and conditions of service of the other officers and employees of the Board shall be such as may be specified by regulations made by the Commission.

Clause 29.— This clause provides for the meetings of the Board.

It provides that the Board shall meet at least once in every month and four members of the Board shall constitute a quorum for the meetings. It further provides that every meeting of the Board shall be presided over by the President or, if for any reason he is unable to attend, such other member as may be chosen by the members present at the meeting from among themselves and a member shall be deemed to have vacated his seat if he is absent, without permission, and without sufficient cause in the opinion of the Board, from three consecutive meetings of the Board and the Board may regulate its own procedure for the transaction of business at its meeting.

Clause 30.—This clause provides for functions of the Board.

It provides that the Board shall take measures to facilitate and promote academic studies and research in emerging areas of health education with focus on professional health education and to ensure uniform augmentation of trained specialists and super specialists, to achieve excellence in these and connected areas and, *inter alia*, includes, determination, co-ordination and maintenance of standards for health education and research; design and approve new courses of study as recommended by institutes, hospitals, colleges or universities for imparting training and conducting courses therein; specify schedule of admissions for admission to various courses of study; specify calendar of examinations and scheme of examinations; conduct examinations for entry to any under graduate, post graduate, doctoral, post doctoral, super speciality or diploma courses, fellowship examination and screening test; take such steps as may be desirable to elevate the standards of training and development of quality health professionals; advise the Commission regarding establishment of laboratories, institutes and training centres for continuous medical education; co-ordinate between medical and other scientific academies, societies, associations, institutions and Government medical and scientific departments and services; appoint such number of visitors as it may consider fit to visit any university or other health educational institution imparting a recognised course in discipline of health, or to attend any examination held by any such university or other health educational institution for the purposes of granting recognition thereof; to prescribe norms for compulsory disclosure by health educational institutions engaging in discipline of health education on all aspects related to their functioning that has a bearing on the interests of students, faculty, parents, the community and the government; to approve and notify norms and standards of maintenance of academic quality for accreditation and benchmarking of education in recognised health educational institutions imparting approved courses in the discipline of health throughout the period of accreditation; promote autonomy of health educational institutions for the free pursuit of knowledge and innovation; promote development of a curricular framework with specific reference to new or emerging or inter-disciplinary field of knowledge; develop measures to effectively connect health education to the needs of society; encourage universities to enable colleges to evolve into health institutions with powers to award degrees; take measures to enhance access to,

and inclusion in, health education to remove regional imbalances in the provision of health educational institutions for such education as well as in access of students to such health educational institutions; advise the Commission and Central Government on any matter that may be referred; and discharge such other functions as may be prescribed.

Clause 31.— This clause provides for power to conduct certain examination.

It provides that the Board may, in consultation with the concerned State Government and university, conduct, with effect from such date as may be notified by the Central Government, either by itself or by an authority authorised by it, examinations for entry to any under graduate, post graduate, doctoral, post doctoral, super speciality or diploma courses or examination for fellowship in such manner as may be specified by regulations made by the Commission.

Clause 32.— This clause provides for power to require information as to courses of study and examinations.

It provides that every health educational institution which grants any recognised qualification shall furnish such information as to courses of study and examinations as the Board may require from time to time.

Clause 33.— This clause provides for the screening test.

It provides that no person, being a citizen of India or a registered Overseas Citizens of India, who obtains the recognised qualification granted by medical institution in any country outside India recognised for enrolment as medical practitioner in that country shall be entitled for enrolment by the National Council or the State Council, as the case may be, unless he qualifies the screening test in India to be conducted by the Board.

It further provides that no person being a citizen of India shall, after the commencement of the proposed legislation, obtain any medical qualification from any medical institution in a country outside India without obtaining an eligibility certificate from the Board and any person, who obtains such qualification without obtaining the eligibility certificate, shall not be eligible to appear in the screening test. However, any person being a citizen of India who acquired the recognised qualification or obtained admission in the medical institution outside India during the period between 15th March, 2002 and the date of commencement of the proposed legislation, after obtaining an eligibility certificate from the Medical Council of India under the Indian Medical Council Act, 1956, shall, subject to other provisions of the proposed legislation, be eligible to be enrolled in the National Register or State Register.

It also provides that any person, being a citizen of India Overseas Citizens of India, who obtains a recognised qualification in the discipline of health other than medicine from any health educational institution in any country outside India recognised for enrolment as practitioner in that country shall not be entitled to be enrolled in the National Register or State Register unless he qualifies the screening test in India and the Commission may, by notification, exempt any person, who possesses the recognised qualification and enrolled as health practitioner in a country outside India for a period of not less than three years, from the requirement of the screening test under this clause.

Clause 34.— This clause provides for constitution of the National Evaluation and Assessment Committee.

It provides that the Central Government shall, by notification, constitute a Committee to be known as the National Evaluation and Assessment Committee for evaluation and assessment of any university or institution seeking permission under clause 17 or imparting education in the discipline of health to assist the Commission in discharge of its powers and functions under the proposed legislation.

Clause 35.— This clause provides for the composition of the National Evaluation and Assessment Committee.

It provides that the Committee shall consist of a President, two whole-time members, and four part-time members, to be appointed by the Central Government on the recommendation of the selection Committee constituted under clause 25.

It further provides that the President and members shall be chosen from the persons of eminence, integrity and outstanding calibre having post graduate degree in the discipline of health, health policy, public health, management, technology, law or finance from a recognised university or institution having ten years of experience in the respective field.

Clause 36.— This clause provides for terms and conditions of office of the President and members of the Committee. It provides that a person appointed as the President or a member of the Committee shall hold office for a term of four years from the date on which he enters upon his office or till the date he attains the age of seventy years, whichever is earlier and be eligible for re-appointment for another term and the President or a member of the Committee shall hold office during the pleasure of the Central Government.

It further provides that the salary and allowances payable to and other terms and conditions of service of the President and other members of the Committee shall be such as may be specified by regulation made by the Commission.

Clause 37.— This clause provides for functions of the Committee.

It provides that the Committee shall take measures to develop and regulate the process of evaluation and assessment of institutions imparting health education and programmes conducted therein, and monitor the functioning of agencies recommended by the Commission and, *inter alia*, specify standards, norms and processes for registration of evaluation and assessment agencies under any law for the time being in force; undertake audit and cause to be audited the adherence to code of ethics including policies on obviating conflict of interest, disclosure of information, evolving transparency in processes and procedures of evaluation and assessment; specify and monitor standards on selection and training of experts for the purposes of evaluation and assessment; scrutinise the report of the evaluation and assessment agency on the applications for consideration of grant of permission for establishing of college, institute or university and make its recommendations to the Commission; recommend to the Commission for review or revoke registration granted to the evaluation and assessment agencies and health institutions as the case may be; levy of fees or other charges for matters relating to evaluation and assessment; advise the Central Government or any State Government or the appropriate statutory regulatory authority on any policy matter concerning evaluation and assessment which may be referred to it; promote research and innovation in evaluation and assessment; monitor adherence to such norms, guidelines and standards of academic quality, as may be specified under any law for the time being in force by the appropriate statutory regulatory authority, in health educational institutions; and perform such other functions as may be assigned to it by the Commission.

It further provides that the process of selection of evaluation and assessment agency for evaluation and assessment shall be in a transparent manner and the information relating to the selection of such agency shall be put in the public domain and notwithstanding anything contained in the proposed legislation or any other law for the time being in force, the Commission or Committee shall not engage the same evaluation and assessment agency for successive inspections or audit inspections, to carry out audit or review inspection of any institute at least for five years.

It also provides that the evaluation and assessment of a health educational institution shall be done by the evaluation and assessment agencies having such qualifications and experience and in such manner as may be specified by regulations made by the Commission.

Clause 38.— This clause provides for the power of audit and inspection of evaluation and assessment agency.

It provides that the Commission may, in consultation with the Central Government, appoint an audit committee consisting of such number of persons having such qualifications

and experience as may be prescribed, for the purpose of audit, inspections or inquiry into the affairs of any evaluation and assessment agency or any health educational institution in so far it relates to their evaluation and assessment.

It further provides that the Commission may, on the recommendations of the National Evaluation and Assessment Committee, at any time, by order in writing, direct the audit committee specified in the order to audit or inspect or inquire into the affairs of any evaluation and assessment agency or any health educational institution in so far it relates to evaluation and assessment and to report its findings and recommendations to the National Evaluation and Assessment Committee or the Commission, as the case may be and on receipt of the report from the audit committee, the Commission may, after giving such opportunity to the evaluation and assessment agency to make a representation in connection with the report, in the opinion of the Commission seems reasonable, by order in writing, take such action in respect of any matter arising out of the report as the Commission may think fit; or modify the terms and conditions of certificate of registration as it thinks fit, and terms or conditions so modified shall be binding upon and be observed by the evaluation and assessment agency and shall be of like force and effect as if they were contained in the certificate of registration or approval, as the case may be; or revoke the certificate of registration of the evaluation and assessment agency or the approval granted to the health educational institution, as the case may be.

It also provides that it shall be the duty of every evaluation and assessment agency and every health educational institution, as the case may be, to produce before the audit committee all such papers and other documents in its custody or power and to furnish any statement and information relating to its affairs, as the audit committee may require of such agency or institution, as the case may be, within such time as the audit committee may specify and the audit committee may examine on oath, any chief executive or officer or other employee of the evaluation and assessment agency in relation to evaluation and assessment of any health educational institution or programme conducted therein, and may administer oaths accordingly.

It also provides that the audit committee shall submit its report to the Committee and the Committee shall place the report and the action taken thereon by it or the Commission, on its website.

Clause 39.— This clause provides for the Executive Director and other officers and employees of the Committee.

It provides that there shall be an Executive Director to the National Evaluation and Assessment Committee to be appointed by the Central Government for a period of four years. It further provides that the Committee may, with the previous approval of the Central Government, appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under the proposed legislation.

It also provides that the salaries and allowances payable to, and the other terms and conditions of service of the Executive Director and other officers and employees of the Committee shall be such as may be specified by regulations made by the Commission.

Clause 40.—It provides for the meetings of the Committee.

It provides that the Committee shall meet at least once in every three months, at such time and place as it may appoint, the quorum of a meeting of the Committee shall be two members and the President of the Committee shall preside over its meetings or, if for any reason he is unable to attend, such other member as may be chosen by the members present at the meeting from among themselves.

It further provides that a member shall be deemed to have vacated his seat if he is absent, without permission, and without sufficient cause in the opinion of the Committee, from three consecutive meetings of the Committee and the Committee may regulate its own procedure for transaction of business at its meetings.

Clause 41.—This clause provides for constitution of corresponding National Councils.

It provides that on the commencement of proposed legislation, there shall be constituted, from such date as the Central Government may, by notification, appoint, such corresponding new National Councils as are specified in the First Schedule annexed to the proposed legislation.

It further provides that on the commencement of the proposed legislation, the Central Government shall, by notification, constitute the Paramedical Council of India for the disciplines of paramedics and National Council for any other discipline of health as may be notified by it under sub-clause (j) of clause 2.

It also provides that each corresponding new National Council and the Paramedical Council of India and the National Council for any other discipline of health shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of the proposed legislation, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued and the head office of each National Council shall be in the National Capital Region referred to in clause (j) of section 2 of the National Capital Region Planning Board Act, 1985.

Clause 42.—This clause provides for vesting of existing councils in the Commission.

It provides that on the commencement of the proposed legislation, every existing Council shall be transferred to, and shall vest in, the Commission.

Clause 43.—This clause provides for President, Vice- President and other members of Council to vacate their offices.

It provides that every person holding office, immediately before the commencement of the proposed legislation, as President or Vice-President or other members of an existing Council shall, on such commencement, vacate their offices as such President or Vice-President or other members, as the case may be, and no such President or Vice-President or other member, as the case may be, shall be entitled to claim any compensation for premature termination of the term of his office.

Clause 44.—This clause empowers the Central Government to guide the corresponding National Councils by its directions.

It provides that every corresponding new National Council shall, in the discharge of its functions, be guided by such directions in regard to matters of policy involving public interest as the Central Government may, after consultation with the Chairperson of the Commission, give.

Clause 45.— This clause provides for references to existing Councils on and from commencement of the proposed legislation.

It provides that any reference to any existing Council in any law, other than the proposed legislation, or in any contract or other instrument shall, in so far as it relates to the undertaking which has been transferred by clause 42 be construed as a reference to the corresponding new National Council.

Clause 46.—This clause provides for composition of the National Councils.

It provides that each National Council referred to in clause 41 shall consist of, one member from each State (other than a Union territory), to be nominated by the Central Government in consultation with the State Government concerned; one member from each University, to be elected from amongst the members of the faculty of the concerned discipline of health by members of the Senate of the University or in case the University has no Senate, by members of the Court; one member from each State in which a State Register in the respective discipline is maintained, to be elected from amongst themselves by persons enrolled on such Register; five members to be nominated by the Central Government from amongst heads of medical institutions in the respective discipline owned, controlled or

managed by the Central Government; five members to be nominated from amongst professionals of respective disciplines by the Central Government; and President of the Board shall be *ex officio* member of the National Council for each discipline of health;

It further provides that a member of the National Council shall cease to be such member if he ceases to be a person enrolled on the concerned State Register or to hold office by virtue of which he was elected or nominated, as the case may be, as such member to the Council.

Clause 47.—This clause provides for elections to National Councils and its term.

It provides that the Commission shall conduct elections for each National Council, within a period of six months from the date of commencement of the proposed legislation for constituting the National Councils under clause 40 in accordance with such procedure and manner as may be prescribed and each such National Council shall continue for a period of four years from the date on which it is constituted. However, the said period may be extended by the Commission, with the prior approval of the Central Government, for a period not exceeding six months in case it is not possible for any reason to reconstitute the National Council after the expiration of the said period.

It further provides that the Commission shall commence the process of conducting the next elections for National Council six months before the expiration of the term of the National Council or any extended period as may be provided under sub-clause (2).

It also provides that the Commission shall conduct elections to any vacancy that may arise in the membership of any National Council on account of death, resignation or removal, in such manner as may be prescribed.

Clause 48.—This clause provides for the President and Vice-President of the National Council.

It provides that each National Council referred to in clause 41 shall have a President and a Vice-President to be elected by the members of the National Council from among themselves in such manner as may be prescribed and the powers to be exercised, and the functions to be performed, by the President or the Vice-President of the National Council shall be such as may be specified by regulations made by the National Council.

Clause 49.—This clause provides for settlement of disputes regarding election.

It provides that, in case of any dispute regarding any election under clause 47 or clause 48, the aggrieved person may make an application within a period of thirty days from the date of declaration of the result of election, to the Chairperson of the Commission who shall forward the same to the Central Government.

Clause 50.—This clause provides for meetings of the National Council.

It provides that the quorum of a National Council for a meeting shall be one-third of its total membership and the Council shall meet at least twice in each year at such time and place as may be appointed by it.

It further provides that the meetings of the National Council shall be presided over by the President or, if for any reason he is unable to attend, by the Vice-President, and in case he is also unable to attend, such other member as may be chosen by the members present at the meeting from among themselves.

It also provides that a member shall be deemed to have vacated his seat if he is absent, without permission, and without showing sufficient cause in the opinion of the National Council, from three consecutive meetings of the National Council and the National Council may make regulations for the transaction of business at its meetings.

Clause 51.—This clause provides for functions of the National Council.

It provides that the National Council shall, subject to the provisions of the proposed

legislation, take measures to enrol persons having recognised qualifications to enable them to practice in respective discipline of health and to regulate the profession of respective discipline of health and such measures may, *inter alia*, provide matters relating to, enrolment of persons having recognised qualifications to enable them to practice in the respective discipline of health and renew the enrolment from time to time; maintain and publish the National Register; organise and conduct seminars, conferences, workshops or other programme from time to time; grant certificate of good standing to the persons enrolled by it; levy fees or other charges to be paid by the persons seeking enrolment or persons enrolled by it; and perform such other functions as may be prescribed

It further provides that a person enrolled under the proposed legislation, before going abroad for the purpose of employment, service, professional assignment or post or position or for exploration of career opportunities or for carrying out any professional or related work, shall obtain the certificate of good standing from the respective National Council or the State Council.

Clause 52.—This clause provides for the Registrar and other officers and employees of the National Council.

It provides that every National Council shall have a Registrar to be appointed by the Central Government for a fixed term of four years who shall not be eligible for re-appointment under the proposed legislation and the National Council may, with the prior approval of the Central Government, appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under the proposed legislation.

It further provides that the salaries and allowances payable to, and the other terms and conditions of service of the other officers and employees of the National Council shall be such as may be specified by regulations made by the National Council.

Clause 53.—This clause provides for the constitution of State Councils.

It provides that where there is no State Council in any State, the State Government shall, by notification, constitute the State Councils for medicine, dentistry, nursing, pharmacy and paramedics, respectively within a period of three years from the date of commencement of the proposed legislation, in such manner and with such composition as may be prescribed by the State Government and the State Government may, by notification, constitute State Councils for any other discipline of health notified under sub-clause (j) of clause 2.

It further provides that until the State Council is constituted in a State, the National Council of respective discipline of health shall enrol the persons, in respect of that State, having recognised qualification in the manner provided under the proposed legislation and such enrolled person shall be entitled to practice in the respective discipline of health only in the State for which he has applied for enrolment

It also provides that each State Council shall be a body corporate by the name aforesaid, having perpetual succession and a common seal, with power, subject to the provisions of the proposed legislation, to acquire, hold and dispose of property, both movable and immovable, and to contract, and shall, by the said name, sue or be sued and the head office of each State Council shall be at such place as the State Government may decide.

It also provides that each State Council shall continue for a period of four years from the date on which it is constituted or, such period as may be prescribed by the State Government.

Clause 54.—This clause provides for the President and the Vice-President of the State Council.

It provides that each State Council referred to in clause 51 shall have a President and a Vice-President to be elected by the members of the State Council from among themselves in such manner as may be prescribed by the State Government and the powers to be exercised, and the functions to be performed, by the President or the Vice-President of the State Council

shall be such as may be specified by regulations made by the State Council.

It further provides that no person shall be eligible to hold office in any capacity in the State Council whether as a President or Vice-President or member for more than two terms.

Clause 55.—This clause provides for meetings of the State Council.

It provides that the quorum of a State Council for a meeting shall be one-third of its total membership and the State Council shall meet at least twice in each year at such time and place as may be appointed by the State Council.

It further provides that the meetings of the State Council shall be presided over by the President or, if for any reason he is unable to attend, by the Vice-President, and in case he is also unable to attend, such other member as may be chosen by the members present at the meeting from among themselves and a member shall be deemed to have vacated his seat if he is absent, without permission, and without showing sufficient cause in the opinion of the State Council, from three consecutive meetings of the State Council and the State Council to make regulations for the transaction of business at its meetings.

Clause 56.—This clause provides for Registrar and other officers and employees of the State Council.

It provides that every State Council shall have a Registrar to be appointed by the State Government for a fixed term of four years who shall not be eligible for re-appointment under the proposed legislation or as may be provided under regulations made by it and with the prior approval of the State Government, appoint such other officers and employees as it considers necessary for the efficient discharge of its functions under the proposed legislation.

It further provides that the salaries and allowances payable to, and the other terms and conditions of service of the other officers and employees of the State Council shall be such as may be specified by regulations made by the State Council.

Clause 57.—This clause provides for the enrolment of persons.

It provides that every National Council and every State Council shall enrol, the persons having recognised qualification, in such form, manner and on payment of such fees and fulfilment of such other criteria or conditions as may be specified by regulations by the National Council, for a period of ten years and the person so enrolled shall be entitled to practice in the respective discipline of health.

It further provides that before the expiry of the period of ten years, the National Council or the State Council, as the case may be, may renew the enrolment of such persons for a further period of ten years, on showing the proof that he has attended such seminar, conference, workshop or any other programme as may be specified by the Commission for the purpose of updating his professional knowledge and skill and this clause declares that no person shall be required to appear and pass any qualifying examination for the purpose of renewal of his enrolment.

It also provides that for the purpose of computing the period of ten years, the period of absence of a person enrolled under this clause from India, if any, shall also be taken into account.

It also provides that any person enrolled by the National Council shall be entitled to practice in the respective discipline of health anywhere in India and the persons enrolled by the State Council shall be entitled to practice in the respective discipline of health anywhere in the State in which he is enrolled and any person enrolled with the existing Medical Council of India or the Dental Council of India or the Nursing Council of India or the Pharmacy Council of India or any State Council, as the case may be, shall be deemed to have been enrolled under the proposed legislation and be eligible to continue to practice for a period of ten years and thereafter he shall be required to renew his enrolment under the proposed legislation.

Clause 58.—This clause provides for the Registers for enrolment of persons.

It provides that every National Council shall enter the name of persons enrolled by it in the National Register to be maintained in such manner as may be prescribed and every State Council shall enter the name of persons enrolled by it in the State Register to be maintained in such manner as may be prescribed by the State Government.

It further provides that every National Council shall collect data of persons enrolled in the State Register from each State Council and enter the same in separate National Register to be maintained in such manner as may be prescribed, and the National Council and the State Councils shall maintain the register by such data capturing method as may be prescribed by the Central Government or State Government, as the case may be, and shall, *inter alia*, contain the biometric and other details of each health professional which shall be verified at the time of renewal of enrolment.

It also provides that the National Council and the State Council shall maintain the Register in accordance with the provisions of the proposed legislation and update it from time to time, and publish the same in the Official Gazette and in such other manner as may be prescribed by the Central Government or State Government, as the case may be, and the National Register and the State Register maintained under this clause shall be deemed to be public document within the meaning of the Indian Evidence Act, 1872.

It also provides that the National Register and the State Register shall also be maintained in electronic form and wherever admissible, be subject to disclosure in the public domain and made amenable for electronic voting for selection of representatives of the profession or for such other purposes as may be prescribed and no person who is not registered with the State Council or the National Council shall falsely represent that his name is so entered in the State Register or the National Register, or use in connection with his name or title, any words or letters reasonably calculated to suggest that his name is so entered.

Clause 59.—This clause provides for duty to serve in India.

It provides that any person, who obtains a degree at graduate or post graduate or doctoral or post doctoral or super speciality from a university or institution which receives grants from the Central Government or State Government or institutions owned or controlled by the Central or State Government; and leave India for the purposes of updating or acquiring higher education in the discipline of health, shall endeavour to serve in India for a period of three years after such updating or acquiring such higher education outside India, failing which his name shall be removed from the National Register or the State Register, as the case may be.

It further provides that any person whose name has been removed under sub-clause (1), who opts to return to India shall be entitled to get his name re-entered subject to payment of such fees and fulfilment of such conditions as may be specified by regulations by the Commission.

It also provides that any person, who obtains a degree at graduate or post graduate or doctoral or post doctoral or super speciality from a university or institution other than the university or institution referred to in sub-clause (1); and leaves India for the purposes of updating or acquiring higher education in the discipline of health or for employment and does not return within the period of three years or does not inform the respective Councils of his whereabouts during such period, then, it shall be construed as professional misconduct.

Clause 60.—This clause provides for prohibition to practice without enrolment.

It provides that no person shall, unless he is enrolled on the National Register or the State Register, as the case may be, as a medical practitioner, hold office as physician or surgeon or any other office as a medical professional in Government or in any health institution maintained by a local or other authority; or practice medicine; or sign or authenticate a medical or fitness certificate or any other certificate required by any law for the time being in force; or give evidence in any court of law as an expert on any matter relating to medicine.

It further provides that no person shall, unless he is enrolled on the National Register or the State Register, as the case may be, as a dentist, hold any appointment in the field of dentistry or dental hygienist in any dispensary, hospital or other health institution which is supported wholly or partially from public or local funds; or practice dentistry; sign or authenticate a certificate required under any law for time being in force from a dentist; or give evidence in any court of law as an expert in any matter relating to dentistry.

It also provides that no person shall, unless he is enrolled on the National Register or the State Register, as the case may be, as a nurse, hold any appointment in the field of nursing as teacher in nursing, nurse, auxiliary nurse, midwife, health visitor, or public health nurse, in any dispensary, hospital or other health institution which is supported wholly or partially from public or local funds; and as a pharmacologist to practice pharmacy.

It also provides that no person shall, unless he is enrolled on the National Register or the State Register, as the case may be, of Paramedics, hold any appointment as paramedic in any dispensary, hospital or other health institution which is supported wholly or partially from public or local funds; or practice as a paramedics.

Clause 61.—This clause provides for privileges of persons enrolled on National Register or State Registers.

It provides that every person, whose name is for the time being borne on the National Register or the State Register, as the case may be, shall subject to the conditions and restrictions laid down by or under the proposed legislation, be entitled to practice in the discipline of his enrolment and to recover in respect of such practice any expenses, charges in respect of medicaments or other appliances, or any fees to which he may be entitled.

Clause 62.—This clause provides for persons enrolled to notify change of place of residence or practice.

It provides that any person enrolled under clause 56 shall inform transfer of his place of residence or practice to the Council concerned, within a period of thirty days of such transfer and if such person fails to comply with the requirements, his right to participate in the elections to the Council concerned shall be liable to be suspended by an order of that Council, for such period as may be specified by regulations made by the Council.

Clause 63.—This clause provides for supply of copies of State Register.

It provides that each State Council shall supply to the National Council printed copies of the State Register as soon as may be after the commencement of the proposed legislation and subsequently after the first day of April of each year and the State Council shall inform the National Council without delay of all additions to and other amendments in the State Register made from time to time.

Clause 64.— This clause provides for liability of persons enrolled with respective National Councils.

It provides that a person enrolled with the respective National Council shall be liable for all the acts of omission, commission, or professional misconduct arising in the State in which the cause of action has arisen.

Clause 65.—This clause provides for provisional registration of persons possessing required qualification from any institution outside India.

It provides that a citizen of India or a registered Overseas Citizens of India possessing recognised qualification in the discipline of medicine granted by a medical institution outside India, who is required to undergo practical training, on such terms and conditions as the Commission may specify shall, on production of evidence that he has been selected for such practical training in an approved institution, be entitled to enroll himself provisionally in a State Register and shall be entitled to practice medicine in the approved institution for the purposes of such training and for no other purpose.

It further provides that a person who has passed the qualifying examination of any university or Institution in India in the discipline of medicine for the grant of a recognised qualification shall be entitled to enroll himself provisionally in a State Register for the purposes of enabling him to be engaged in employment in a resident medical capacity in any approved institution or in the Medical Service of the Armed Forces of the Union, and for no other purpose, on production of proper evidence that he has been selected for such employment and the names of all persons provisionally enrolled in the State Register shall be entered therein separately from the names of other persons enrolled therein.

It also provides that a person enrolled provisionally as aforesaid who has completed practical training or who has been engaged for the specified period in employment in a resident medical capacity in any approved institution, or in the medical service of the Armed Forces of the Union, as the case may be, shall be entitled to enroll himself in the State Register.

Clause 66.—This clause provides for entry of additional qualifications in the Registers.

It provides that if any person whose name is entered in the National Register or the State Register, as the case may be, obtains any title, diploma or other qualification for proficiency in sanitary science, public health or medicine which is a recognised medical qualification, he shall, on application made in this behalf in such manner as may be prescribed, be entitled to have any entry stating such other title, diploma or other qualification made against his name in such Register either in substitution for or in addition to any entry previously made.

Clause 67.—This clause provides for code of ethics.

It provides that the National Council shall specify, by regulations, the standards of professional conduct, etiquette and code of ethics to be observed by the persons enrolled under the proposed legislation.

Clause 68.—This clause provides for professional misconduct.

It provides that for the purposes of the proposed legislation, the expression, “professional misconduct” shall be deemed to include any act or omission provided in the Seventh Schedule but nothing in this clause shall be construed to limit or abridge in any way the power conferred or duty cast on the respective Councils under proposed legislation to inquire into the professional conduct of any person whose name is included in the National Register or State Register, under any other circumstances.

Clause 69.—This clause provides for power of National Council and State Councils to institute inquiry and to impose penalties.

It provides that every National Council and every State Council shall have power to institute an inquiry into any complaint, charge or allegation of professional misconduct against any person enrolled by it under the proposed legislation and on finding such person guilty of such conduct, to impose any one or more of the penalties, such as, warning or a reprimand or a reprimand and a warning; suspension of registration for a period not exceeding two years; or removal of his or her name from the register; impose a monetary penalty not exceeding ten lakh rupees and a compulsory period of such professional service as may be specified by regulations made by the Council.

It further provides that every National Council or State Council, as the case may be, shall give an opportunity of being heard to the concerned person before imposing upon him any of the such penalties.

Clause 70.—This clause provides for appeals against decision under clause 69.

It provides that any person aggrieved by the decision of the National Council may, within a period of ninety days from the date of communication of such decision, prefer an appeal to the ethics committee to be constituted by the Commission and any person aggrieved

by the decision of the State Council may, within a period of ninety days from the date of communication of such decision, prefer an appeal to the ethics committee to be constituted by the State Council.

It further provides that any person aggrieved by an order of the ethics committee may, within a period of sixty days from the date of receipt of the order of the said Committee, prefer an appeal to the ethics appellate committee to be constituted by the National Council.

It also provides that the composition of, and the procedure to be followed by, the ethics committee and the ethics appellate committee and terms and conditions of such members shall be such as may be prescribed.

Clause 71.—This clause provides for removal of names from National Register or State Register and restoration thereof.

It provides that the National Council, or as the case may be, the State Council may remove the name of any person enrolled by it in such circumstances and in such manner as may be specified by regulations made by the Commission and the Commission may, in case of removal of name of any person from the National Register or the State Register (except in case of professional misconduct), on an application, if it is satisfied on the grounds mentioned therein and after making such inquiry as it deems necessary, may direct, by order, the National Council or the State Council, as the case may be, to restore the name of such person on payment of such fees or fulfillment of such conditions which it may impose in the order.

Clause 72.—This clause provides for grievance redressal mechanism.

It provides that any person aggrieved from the professional services rendered by the persons enrolled under the proposed legislation may file a complaint with the State Council, within a period of sixty days from the date of rendering of such service, in such manner as may be specified by regulations made by the Commission. However, the complaint may be admitted after expiry of the said period of sixty days if the complainant satisfies the Council that he had sufficient cause for not preferring the complaint within the said period and the Council shall decide the complaint within a period of one hundred and twenty days from the date of its receipt.

Clause 73.—This clause provides for power of National Council to make regulations.

It provides that the National Council may, with the previous approval of the Central Government, make regulations consistent with the provisions of the proposed legislation or the rules or regulations made by the Commission.

It further provides that in particular, and without prejudice to the generality of foregoing power, such regulations may provide for all or any of the matters, namely, other ethical principles under sub-clause (e) of clause 2; the powers to be exercised and the functions to be performed by the President or the Vice-President of the National Council under sub-clause (2) of clause 48; the procedure for transaction of business at meetings of the National Council under sub-clause (5) of clause 50; the salaries and allowances payable to and the other terms and conditions of the service of the other officers and employee of the National Council under sub-clause (3) of clause 52; the form and manner of enrolment of persons and the fees and such other criteria or conditions for such enrolment under sub-clause (1) of clause 57; the standards of professional conduct, etiquette and code of ethics under clause 67; the professional service to be rendered under item (e) of sub-clause (1) of clause 69 and any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

Clause 74.—This clause provides for power of State Council to make regulations.

It provides that the State Council may, with the previous approval of the State Government, make regulations consistent with the provisions of proposed legislation or the rules or regulations made by the Commission and the National Council and such regulations may provide for all or any of the matters, namely, the powers to be exercised, and the

functions to be performed, by the President or the Vice-President of the State Council under sub-clause (2) of clause 54; the procedure for transaction of business at meetings of the State Council under sub-clause (5) of clause 55; the salaries and allowances payable to and the other terms and conditions of the service of the other officers and employee under sub-clause (3) of clause 56; the professional service to be rendered under item (e) of sub-clause (1) of clause 69 and any other matter which is required to be, or may be, specified by regulations or in respect of which provision is to be or may be made by regulations.

Clause 75.—This clause provides for grants by the Central Government.

It provides that the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as the Central Government may think fit, for being utilised for the purposes of the proposed legislation.

Clause 76.—This clause provides for constitution of Fund of Commission.

It provides that there shall be constituted a fund to be called “the National Commission for Human Resource for Health Fund” and there shall be credited thereto, all Government grants, fees and charges received by the Commission and all sums received by the Commission from such other source as may be decided upon by the Central Government.

It further provides that the Fund shall be applied for meeting, the salaries, allowances and other remuneration of the members, officers and other employees of the Commission, Board, Committee and National Councils; the other expenses of the Commission in connection with the discharge of its functions and for the purposes of the proposed legislation and the expenses of the Board, Committee and National Councils in connection with the discharge of their functions and for the purposes of this Act.

Clause 77.—This clause provides for audit of accounts.

It provides that the Commission, Board, Committee, National Council and State Council shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed, in consultation with the Comptroller and Auditor-General of India and such accounts of the Commission, Board, Committee, National Council and State Council shall be audited by the Comptroller and Auditor-General of India at such intervals as may be specified by him and any expenditure incurred in connection with such audit shall be payable by the Commission to the Comptroller and Auditor-General of India.

It further provides that the Comptroller and Auditor-General of India and any other persons appointed by him in connection with the audit of the accounts of the Commission, Board, Committee, National Council and State Council shall have the same rights and privileges and authority in connection with such audit as the Comptroller and Auditor-General generally has in connection with the audit of Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Commission, Board, Committee, National Council and State Council.

It also provides that the accounts of the Commission, Board, Committee, National Council, State Council as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually by the Commission, Board, Committee, National Council and State Council to the Central Government which shall cause the same to be laid as soon as may be after it is received, before each House of Parliament.

Clause 78.—This clause provides for furnishing of returns and reports to the Central Government.

It provides that the Commission, Board, Committee, National Council, State Council, and other committee shall furnish to the Central Government at such time and in such form as may be prescribed, an annual report giving a summary of their activities during the previous

year and a copy of such report received by the Central Government shall be laid, as soon as may be after it is received, before each House of Parliament.

Clause 79.—This clause provides for punishment for establishing institution without permission.

It provides that whoever contravenes the provision of clause 17 shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both for the first offence and in case of second or subsequent offence, with imprisonment for a term which may extend to three years or with fine which may extend to twenty-five lakh rupees, or with both.

Clause 80.—This clause provides for penalty for contravention of clause 57.

It provides that any person who contravenes the provisions of clause 57 relating to enrolment shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both for the first offence and in case of second or subsequent offence, with imprisonment for a term which may extend to three years or with fine which may extend to twenty-five lakh rupees, or with both.

Clause 81.—This clause provides for penalty for contravention of section 33.

It provides that any person who contravenes the provisions of section 33 shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both for the first offence and in case of a second or subsequent offence, with imprisonment for a term which may extend to three years or fine which may extend to twenty five lakh rupees or with both.

Clause 82.—This clause provides for punishment for furnishing information contrary to which published by institutions.

It provides that where on assessment under clause 37 it is found that the information provided by a university or an institution imparting health education, is not in conformity with the information displayed at its website or information given to the concerned authorities for evaluation and assessment, then the Head of the university or institution in case of Government university or institution and in case of non-governmental university or institution, any director, manager, secretary or other officer of the company, trusts, societies such director, manager, secretary or other officer shall be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees, or with both.

Clause 83.—This clause provides for offences by companies.

It provides that where an offence under the proposed legislation has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly and nothing shall render any such person liable to any punishment provided in the proposed legislation, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

It further provides that notwithstanding anything contained in sub-clause (1), where an offence under the proposed legislation has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

It also provides that for the purposes of this clause, "company" means anybody corporate and includes a firm or other association of individuals; and "director" means a whole-time director in the company and in relation to a firm, means a partner in the firm.

Clause 84.—This clause provided for offences by societies or trusts.

It provides that where an offence under the proposed legislation has been committed by a society or a trust, every person who, at the time the offence was committed, was in charge of, and was responsible to, the society or trust for the conduct of the business of the society or trust, as well as the society or trust, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly and nothing shall render any such person liable to any punishment provided in the proposed legislation, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

It further provides that notwithstanding anything contained in sub-clause (1), where an offence under the proposed legislation has been committed by a society or trust and it is proved that the offence has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary, trustee or other officer of the society or trust, such director, manager, secretary, trustee or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

It also provides that for the purposes of this clause, "society" means anybody corporate registered under the Societies Registration Act, 1860 and, "trust" means any body registered under the Indian Trusts Act, 1882 or any other law for the time being in force; and "director", in relation to society or trust, means a member of its governing board other than an *ex officio* member representing the interests of the Central or State Government.

Clause 85.—This clause provides for cognizance of offences.

It provides that no court shall take cognizance of any offence punishable under the proposed legislation, save on a complaint made by the Commission or by an officer authorised by it and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under the proposed legislation.

Clause 86.—This clause provides for power of Central Government to supersede Commission, Board, Committee or National Council.

The Central Government may, by notification, supersede the Commission, the Board, the Committee or the National Council, as the case may be, for such period, not exceeding six months, if the Central Government is of the opinion that on account of circumstances beyond the control of the Commission, Board, Committee or National Council, as the case may be, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of the proposed legislation; or that the Commission, Board, Committee or National Council, as the case may be, has persistently defaulted in complying with any direction given by the Central Government under the proposed legislation or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of the proposed legislation and as a result of such default the financial position of the Commission, the Board, the Committee or the National Council, or the administration of the Commission, the Board, the Committee or the National Council, as the case may be, has suffered; or that circumstances exist which render it necessary in the public interest so to do.

It further provides that the Central Government before issuing any such notification, the Central Government shall give a reasonable opportunity to the Commission, the Board, the Committee or the National Council, as the case may be, to make representations against the proposed supersession and shall consider the representations, if any, of the Commission, the Board, the Committee or the National Council, as the case may be.

It also provides that upon the publication of a notification under sub-clause (1) superseding the Commission, the Board, the Committee or the National Council, as the case may be, the Chairperson, President, Vice-President and other members shall, as from the date of supersession, vacate their offices as such; all the powers, functions and duties which may, by or under the provisions of the proposed legislation, be exercised or discharged

by or on behalf of the Commission, the Board, the Committee or the National Council, as the case may be, shall, until the Commission, the Board, the Committee or the National Council, as the case may be, is reconstituted under sub-clause (3), be exercised and discharged by the person or persons referred to in sub-clause (1); and all properties owned or controlled by the Commission, the Board, the Committee or the National Council, as the case may be, shall, until the Commission, the Board, the Committee or the National Council, as the case may be, is reconstituted under sub-clause (3), vest in the Central Government.

It also provides that on or before the expiration of the period of supersession specified in the notification issued under sub-clause (1), the Central Government shall reconstitute the Commission, the Board, the Committee or the National Council, as the case may be, by a fresh appointment of its Chairperson, President, Vice-President and other members and in such case any person who had vacated his office under item (a) of sub-clause (2) shall not be deemed to be disqualified for reappointment and the Central Government shall cause a copy of the notification issued under sub-clause (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before each House of Parliament at the earliest.

Clause 87.—This clause provides for power of State Government to supersede State Council. The State Government may, by notification, supersede the State Council for such period, not exceeding six months, if, at any time the State Government is of the opinion that on account of circumstances beyond the control of the State Council, it is unable to discharge the functions or perform the duties imposed on it by or under the provisions of the proposed legislation; or that the State Council has persistently defaulted in complying with any direction given by the State Government under the proposed legislation or in the discharge of the functions or performance of the duties imposed on it by or under the provisions of the proposed legislation and as a result of such default the financial position of the State Council, or the administration of the State Council, has suffered; or that circumstances exist which render it necessary in the public interest so to do. The State Government before issuing any such notification, shall give a reasonable opportunity to the State Council to make representations against the proposed supersession and shall consider the representations, if any, of the State Council.

It further provides that upon the publication of a notification under sub-clause (1) superseding the State Council, the President and other members shall, as from the date of supersession, vacate their offices as such; all the powers, functions and duties which may, by or under the provisions of the proposed legislation, be exercised or discharged by or on behalf of the State Council shall, until the State Council is reconstituted under sub-clause (3), be exercised and discharged by the person or persons referred to in sub-clause (1); and all properties owned or controlled by the State Council shall, until the State Council is reconstituted under sub-clause (3), vest in the State Government.

It also provides that on or before the expiration of the period of supersession specified in the notification issued under sub-clause (1), the State Government shall reconstitute the State Council, by a fresh appointment of its President and other members and in such case any person who had vacated his office under item (a) of sub-clause (2) shall not be deemed to be disqualified for reappointment and the State Government shall cause a copy of the notification issued under sub-clause (1) and a full report of any action taken under this section and the circumstances leading to such action to be laid before State Legislature at the earliest.

Clause 88.—This clause provides for declaration of interest.

It provides that the President or Vice-President and other Members of the Board, Committee, National Council or State Council, as the case may be, shall immediately after entering office and every year thereafter, make a declaration to the extent of their interest, whether direct or indirect and whether financial or otherwise, in any health institution which comes under the purview of the Board, Committee, National Council or State Council, as the case may be, and the same shall be placed in the public domain.

Clause 89.—This clause provides for restrictions on re-employment.

It provides that the President or Vice-President and other members of the Board, Committee, National Council or the State Council, as the case may be, on ceasing to hold office shall not for a period of two years accept any employment (including as consultant or expert or otherwise) in any health educational institution whose matter has been dealt with by such President, Vice-President or member, as the case may be.

It further provides that nothing in sub-clause (1) shall prevent the President, Vice-President or a member, as the case may be, to accept any employment in any health educational institution controlled or maintained by the Central Government or the State Government.

Clause 90.—This clause provides for Member to act as President, or to discharge his functions, in certain circumstances. It provides that in the event of the occurrence of any vacancy in the office of the President or other member of the Board, Committee, National Council or the State Council, as the case may be, by reasons of death, removal, suspension or resignation, the senior most whole-time member of such the Board, Committee, National Council or the State Council, as the case may be, shall act as the President till such time the President is appointed, to fill the vacancy and when the President is unable to discharge his functions owing to absence on account of leave or otherwise, the senior most whole-time member shall discharge the functions of the President till the President is able to discharge his functions.

Clause 91.—This clause provides for restriction on holding office for more than two terms.

It provides that notwithstanding anything in the proposed legislation, no person shall be eligible to be appointed or nominated or elected in any capacity in the Commission, Board, Committee, National Council or State Council, whether as the Chairperson or President or Vice-President or member for more than two terms.

Clause 92.—This clause seeks to provide for resignation of President, Vice-President or a member of the Board, Committee, National Council or State Council.

It provides that the President, Vice-President or a member of the Board, Committee, National Council or the State Council, as the case may be, may, by notice given in writing under his hand of not less than a period of thirty days, addressed to the Central Government or, as the case may be, the State Government, resign from his office. However, the President, Vice-President or a member of the Board, Committee, National Council or the State Council, as the case may be, shall, unless permitted by the Central Government or, as the case may be, the State Government, to relinquish office sooner, continue to hold office until the expiry of a period of thirty days from the date of receipt of such notice or until a person duly appointed as his successor enters upon office or until the expiry of his term of office, whichever is earliest.

Clause 93.—This clause provides for removal and suspension of President, Vice-President or a member of the Board, Committee, National Council or State Council.

It provides that the Central Government or, as the case may be, the State Government may, by order, remove from office the President or Vice-President or any member of the Board, Committee, National Council or the State Council, as the case may be, who, has been adjudged an insolvent; or being whole-time member has engaged at any time, during his term of office, in any paid employment; or has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude; or has become physically or mentally incapable of acting as such Chairperson or other Member; or is of unsound mind and stands so declared by a competent court; or has been removed or dismissed from the service or office of the Central Government or of a State Government or from a body owned or controlled by the Central Government or a State Government or from any Central or State statutory body; has acquired such financial or other interest as is likely to affect prejudicially his functioning as Chairperson or other Member, as the case may be; or has so abused his position as to

render his continuance in office prejudicial to public interest; or has been guilty of proved misconduct; or has been guilty of proved conflict of interest in the discharge of functions.

It further provides that the President, Vice-President or member of the Board, Committee, National Council or State Council, as the case may be, shall not be removed from his office unless he has been given a reasonable opportunity of being heard in the matter. However, the Central Government or, as the case may be, the State Government may, if it considers necessary in the public interest, suspend such President, Vice-President or other member.

Clause 94.—This clause provides for vacancies, etc., not to invalidate proceedings of Board, Committee, National Council or State Council.

It provides that any act or proceeding of the Board, Committee, National Council or State Council, as the case may be, shall not be invalid merely by reason of, any vacancy in, or any defect in the constitution of, the Board, Committee, National Council or State Council, as the case may be; or any defect in the appointment of a person as a Member of the Board, Committee, National Council or State Council, as the case may be; or any irregularity in the procedure of the Board, Committee, new Council or State Council, as the case may be, not affecting the merits of the case.

Clause 95.—This clause provides for power to appoint committees or experts.

It provides that the Board, Committee, National Council or State Council shall be competent to constitute such other committees for general or special purposes, as it may consider necessary to carry out the functions assigned to it under the proposed legislation.

It further provides that the Board, Committee, National Council or State Council may engage such experts for discharging its functions under the proposed legislation for such period, on such qualification and on payment of such fees and remuneration as may be specified by regulations made by the Commission.

Clause 96.—This clause provides for reporting by universities and institutions.

It provides that every health educational institution under the proposed legislation shall at all times maintain a website and display all such information as may be required by the Commission, Board or Committee, as the case may be and the Commission, Board or Committee, as the case may be, shall either themselves or through such other experts, at any time during the existence of the evaluation or assessment, without any notice may assess the performance standards and benchmarks as displayed by the University or health institution on its website.

It further provides that the Central Government may by notification specify such procedure as may be necessary to prevent unfair practices by university or institutions imparting health education.

Clause 97.—This clause provides for establishment of State or regional administrative offices.

It provides that the Commission, Board, Committee or the National Council, may, with prior approval of the Central Government, establish State or regional level administrative offices, to perform such functions relating to information management, co-ordination and liaison in the State or region for which such office is set up.

Clause 98.—This clause provides for reference of dispute to the Central Government.

It provides that where any dispute arises regarding any recommendation or advice of Board or Committee or National Council made to the Commission, it shall be referred to the Central Government whose decision thereon shall be final and binding.

Clause 99.—This clause provides for appeal against decisions of Commission.

It provides that any person aggrieved by an order made by the Commission under clause 97 may prefer an appeal to the Central Government within such period as may be

prescribed and no appeal shall be admitted if it is preferred after the expiry of the period prescribed therefore. However, such appeal may be admitted after the expiry of the period prescribed therefore if the appellant satisfies the Central Government that he had sufficient cause for not preferring the appeal within the prescribed period.

It further provides that every appeal made under this clause shall be made in such form and shall be accompanied by a copy of the order appealed against and by such fees as may be prescribed.

It also provides that the procedure for disposing of an appeal shall be such as may be prescribed and before disposing of an appeal, the appellant shall be given a reasonable opportunity of being heard.

Clause 100.—This clause provides for bar of jurisdiction of courts.

It provides that no order refusing to enrol name of any person in the National Register or the State Register, as the case may be, or removing a name therefrom shall be called in question in any court.

Clause 101.— This clause provides for protection of action taken in good faith.

It provides that no suit, prosecution or other legal proceeding shall lie against any person for anything which has been done or intended to be done in good faith under the proposed legislation.

Clause 102.— This clause provides for Members, etc., to be public servants.

It provides that the Chairperson, President, Vice-President and Members and the Chief Executive Officer, Executive Director and other officers and employees of the Commission, Board, Committee, National Council or State Council, as the case may be, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

Clause 103.—This clause provides for powers of the Commission, Board, Committee or National Council to call for information or conduct investigations, etc.

It provides that where the Commission, Board, Committee or National Council, as the case may be, consider it expedient so to do, it may, by order in writing, call upon any health educational institution at any time to furnish in writing, such information or explanation relating to its affairs as the Commission, Board, Committee or National Council, as the case may be, may require; or appoint one or more persons to make an inquiry in relation to the affairs of any health educational institution; and direct any of its officers or employees to inspect the books of account or other documents of any health educational institution.

It further provides that where any inquiry in relation to the affairs of an health educational institution has been undertaken under sub-clause (1), every officer of the Government Department, if such health educational institution is a department of the Government; every director, manager, secretary or other officer, if such health educational institution is a company; or every partner, manager, secretary or other officer, if such health educational institution is a firm; or every other person or body of persons who has had dealings in the course of business with any of the persons mentioned in sub-clause (2), shall produce before the Commission, Board, Committee or National Council, as the case may be, making the inquiry, all such books of account or other documents in his custody or power relating to, or having a bearing on the subject-matter of such inquiry and also to furnish to the Commission, Board, Committee or National Council, as the case may be, with any such statement or information relating thereto, as the case may be, required of him, within such time as may be specified by the Commission.

It also provides that every health educational institution shall maintain such books of account or other documents as may be specified by regulations made by the Commission and the Commission, Board, Committee or National Council, as the case may be, shall have the power to issue such directions to health educational institution as it may consider necessary for proper functioning of such institution.

Clause 104.— This clause provides for completion of courses of studies in health educational institutions.

It provides that notwithstanding anything contained in the proposed legislation, any student of health educational institutions who, immediately before the commencement of the proposed legislation was studying for a degree, diploma or certificate in any such institution shall continue and complete his course for that degree, diploma or certificate, as the case may be, and such institutions shall provide for the instruction and examination for such student in accordance with the syllabus of studies as existed before the commencement of the proposed legislation and shall be deemed to have completed his course of study and awarded degree, diploma or certificate, as the case may be, under the proposed legislation.

It further provides that notwithstanding anything contained in the proposed legislation, the health educational institution in case of lapse of its recognition whether by efflux of time or by withdrawal by the Commission or by its voluntary surrender or for any other reason whatsoever shall continue to maintain and provide the minimum standards of infrastructure approved by the Commission till such time that all the candidates are able to complete their study in such institutions.

Clause 105.—This clause provides for power of the Central Government to issue directions.

It provides that without prejudice to the foregoing provisions of the proposed legislation, the Commission, Board, Committee or National Council, as the case may be, shall, in exercise of its powers and in performance of its functions under the proposed legislation, be bound by such directions on questions of policy, as the Central Government may give in writing to it from time to time and the Commission, Board, Committee or National Council, as the case may be, shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section. However, if any dispute arises between the Central Government and the Commission, Board, Committee or National Council, as the case may be, as to whether a question is or is not a question of policy, the decision of the Central Government shall be final.

Clause 106.—This clause provides for powers of the State Government to issue directions.

It provides that without prejudice to the foregoing provisions of the proposed legislation, the State Council shall, in exercise of its powers and in performance of its functions under the proposed legislation, be bound by such directions on questions of policy, as the State Government may give in writing to it from time to time and the State Council shall, as far as practicable, be given an opportunity to express its views before any direction is given under this sub-section. However, if any dispute arises between the State Government and the State Council as to whether a question is or is not a question of policy, the decision of the State Government shall be final.

Clause 107.—This clause provides for furnishing of information by the commission, Board, Committee and National Council to furnish information to the Central Government.

It provides that the Commission, Board, Committee and National Council shall furnish to the Central Government any information with respect to their activities as the Central Government may from time to time require.

Clause 108.—This clause provides for powers to amend Schedules.

It provides that the Central Government may, after consultation with the Commission, by notification, add to or otherwise amend any of the Schedules of the proposed legislation and thereupon the said Schedules shall be deemed to be amended accordingly.

Clause 109.— This clause provides for review.

It provides that the Central Government may appoint an independent committee once

in every five years to review the functioning of the Commission, Board, Committee or National Council, as the case may be.

Clause 110.—This clause provides to have overriding effect by the proposed legislation.

It provides that subject to the provisions of sub-clause (2), the provisions of the proposed legislation shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than the proposed legislation.

It further provides that the provisions of the proposed legislation or the rules made thereunder shall be in addition to, and not in derogation of, the Indian Medical Degrees Act, 1916.

Clause 111.—This clause provides for power of the Central Government to make rules.

It confers upon the Central Government the power to make rules to carry out the provisions of the proposed legislation. Sub-clause (2) of this clause enumerates the various matters in respect of which such rules may be made.

Clause 112.—This clause provides for powers of the Commission to make regulations.

It confers powers upon the Commission to make regulations, consistent with the proposed legislation and the rules made thereunder, to carry out the purposes of the proposed legislation. Sub-clause (2) enumerates the various matters in respect of which such regulations may be made by the Commission.

Clause 113.—This clause provides for powers of the State Government to make rules.

It confers powers upon the State Government the power to make rules to carry out the provisions of the proposed legislation. Sub-clause (2) of this clause enumerates the various matters in respect of which such rules may be made.

Clause 114.—This clause provides for laying of rules and regulations.

This clause provides that every rule and every regulation made and every notification issued by the Central Government shall be required to be laid before each House of Parliament and every rule and regulation made by the State Government shall be required to be laid before the appropriate State Legislature.

Clause 115.—This clause provides for powers of the Central Government to direct regulations to be made or to make or amend the regulations.

It provides that, if the Central Government considers it expedient so to do, it may, by order in writing, direct the Commission or Board or Committee or National Council, as the case may be, to make any regulations or to amend or revoke any regulations already made within such period as it may specify in this behalf.

It further provides that, if the Commission or Board or Committee or National Council, as the case may be, fails or neglects to comply with such order within the specified period, the Central Government may make the regulations or amend or revoke the regulations made by the Commission or Board or Committee or National Council, as the case may be, either in the form specified in the order or with such modifications thereof as the Central Government thinks fit.

Clause 116.—This clause provides for power to remove difficulties.

It provides that the Central Government to make, by order published in the Official Gazette, provisions for removal of difficulties in giving effect to the provisions of the proposed legislation. Such orders could be made only within two years from the commencement of the proposed legislation. However, every order issued under this clause is required to be laid before each House of Parliament.

Clause 117.—This clause provides for repeal and saving.

It provides that with effect from such date as the Central Government may appoint in this behalf, the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956 shall stand repealed and the Nursing Council of India, the Pharmacy Council of India, the Dental Council of India and Medical Council of India shall stand dissolved. However, during the period between the date of coming into force of the proposed legislation and date of repeal of the enactments mentioned in this sub-clause, the existing Nursing Council of India, the Pharmacy Council of India, the Dental Council of India and the Medical Council of India, as the case may be, shall not take any decision or action, except with the prior approval of the Commission on any matter specified by it.

It further provides that on the commencement of the proposed legislation, every existing Council shall be transferred to, and shall vest in, the Commission and each existing Council which is transferred to, and which vest in, the Commission shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the commencement of the proposed legislation in the ownership, possession, power or control of the existing Council, whether within or without India, and all books of accounts, registers, records and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the existing Council.

It also provides that if, according to the laws of any country outside India, the provisions of the proposed legislation by themselves are not effective to transfer or vest any asset or liability situated in that country which forms part of an existing Council to, or in, the Commission, the affairs of the existing Council in relation to such asset or liability shall, on and from the commencement of the proposed legislation, stand entrusted to the Chief Executive Officer for the time being of the Commission, and the Chief Executive Officer may exercise all powers and do all such acts and things as may be exercised or done by the existing Council for the purpose of effectively transferring such assets and discharging such liabilities. The Chief Executive Officer of the Commission shall, in exercise of the powers conferred on him by sub-clause (4), take all such steps as may be required by the laws of any such country outside India for the purpose of effecting such transfer or vesting, and may either himself or through any person authorised by him in this behalf realise any asset and discharge any liability of the existing Council.

It also provides that unless otherwise expressly provided by the proposed legislation, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the commencement of the proposed legislation and to which the existing Council is a party or which are in favour of the existing Council shall be of as full force and effect against or in favour of the Commission, and may be enforced or acted upon as fully and effectually as if in the place of the existing Council, the Commission had been a party thereto or as if they had been issued in favour of the Commission and if, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any existing Council which has been transferred under sub-clause (2) is pending by or against the existing Council, the same shall not abate, be discontinued or be, in any way, prejudicially affected by reason of the transfer of the existing Council or of anything contained in the proposed legislation but the suit, appeal or other proceeding may be continued, prosecuted and enforced by or against the Commission.

It also provides that nothing in the proposed legislation shall be construed as applying to the assets, rights, powers, authorities and privileges and property, movable and immovable, cash balances and investments in any country outside India (and other rights and interests in, or arising out of, such property) and borrowings, liabilities and obligations of whatever

kind subsisting at the commencement of the proposed legislation, of any existing Council operating in that country if, under the laws in force in that country. However, notwithstanding such repeal, anything done or any action taken under the provisions of the aforesaid Acts shall, insofar as such thing or action is not inconsistent with the provisions of the proposed legislation, be deemed to have been done or taken under the provisions of the proposed legislation, as if the said provisions were in force when such thing was done or such action taken, and shall continue in force.

Clause 118.—This clause provides for provisions in respect of officers and other employees of existing Council and National Board of Examinations.

It provides that every officer or other employee of the existing Council (except the President, Vice-President and members of the existing Council) or the National Board of Examinations, as the case may be, serving in the employment immediately before the appointed day shall become, as from the appointed day, an officer or, as the case may be, other employee of the Commission and shall hold his office or service therein by the same tenure, at the same remuneration, upon the same terms and conditions, with the same obligations and with the same rights and privileges as to leave, leave fare concession, welfare scheme, medical benefit scheme, insurance, provident fund, other funds retirement, voluntary retirement, gratuity and other benefits as he would have held under the existing Council if its undertaking had not vested in the Commission and shall continue to do so as an officer or, as the case may be, other employee of the existing Council or until the expiry of a period of six months from the appointed day if such officer or other employee opts not to continue to be the officer or other employee of the existing Council within such period and the Commission may transfer any officer or other employee or the services of such officers or other employees as it may deem fit, to the Board, Committee or the National Council.

It further provides that where an officer or other employee of the existing Council opts under sub-clause (1) not to be in employment or service of the Commission, such officer or other employee shall be deemed to have resigned.

It also provides that notwithstanding anything contained in the Industrial Disputes Act, 1947 or in any other law for the time being in force, the transfer of the services of any officer or other employee of the existing Council or the National Board of Examinations, as the case may be, to the Commission shall not entitle such officer or other employee to any compensation under proposed legislation or under any other law for the time being in force and no such claim shall be entertained by any court, tribunal or other authority and the officer and other employees who have retired before the appointed day from the service of the existing Council or the National Board of Examinations, as the case may be, and are entitled to any benefits, rights or privileges shall be entitled to receive the same benefits, rights or privileges from the Commission.

It also provides that the provident fund or the gratuity fund of the existing Council or the National Board of Examinations, as the case may be, and any other bodies created for the welfare of officer or other employees would continue to discharge their functions in the Commission as was being done hitherto in the existing Council or the National Board of Examinations, as the case may be, and any tax exemption granted to the provident fund or the gratuity fund would continue to be applied to the Commission.

It also provides that notwithstanding anything contained in the proposed legislation or in the Companies Act, 1956 or in any other law for the time being in force or in the regulations of the existing Council or the National Board of Examinations, as the case may be, the President or Vice-President or member or the trustees, executive trustee or any other person entitled to manage the whole or substantial part of the business and affairs of the existing Council or the National Board of Examinations, as the case may be, shall not be entitled to any compensation against the Commission for the loss of office or for the premature termination of any contract of management entered into by him with the Commission.

Clause 119.—This clause provides for transitory provisions.

It provides that notwithstanding the repeal of the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956, the educational standards, requirements and other provisions of the Indian Nursing Council Act, 1947, the Pharmacy Act, 1948, the Dentists Act, 1948 and the Indian Medical Council Act, 1956 and the rules and regulations made thereunder shall continue to be in force and operate till new standards are specified under the proposed legislation or the rules and regulations made thereunder. However, anything done or any action taken as regards the educational standards and requirements under the enactments under repeal and the rules and regulations made thereunder shall be deemed to have been done or taken under the corresponding provisions of the proposed legislation and shall continue in force accordingly unless and until superseded by anything done or by any action taken under the proposed legislation and all such courses that are being conducted by the National Board of Examinations shall continue till the Central Government on the advice of the Commission notifies the constitution of the Board under the proposed legislation.

It further provides that the Central Government may, if considered necessary by notification, take such appropriate measures as may be necessary for smooth transition of repealed Councils to the corresponding new Councils and the existing National Board of Examination to the Board under the proposed legislation.

Clause 120.—This clause relates to resolution of difference of opinion by Joint Mechanism. This clause provides that in case of any difference of opinion with the National Commission for Higher Education constituted under the National Commission for Higher Education and Research Act, 2011, the same may be referred to the Joint Mechanism constituted under section 52 of the National Commission for Higher Education and Research Act, 2011 for resolution of such difference of opinion in accordance with the provisions of that Act.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for establishment of the National Commission for Human Resources for Health consisting of a Chairperson; four whole-time members; and eight part-time members to be appointed, by the Central Government. Sub-clause (3) of clause 6 of the Bill provides that the salary and allowances payable to and other terms and conditions of service of the Chairperson and other Members shall be such as may be prescribed.

2. Sub-clause (1) of clause 15 of the Bill provides for the appointment of a Chief Executive Officer of the Commission, not below the rank of Additional Secretary to the Government of India, who shall be the Member-Secretary of the Commission. Sub-clause (5) of said clause provides that salaries and allowances and other terms and conditions of service of the Chief Executive Officer and other officers and employees of the Commission shall be such as may be prescribed.

3. Clause 23 of the Bill provides for constitution of a Board to be known as the 'National Board for Health Education' consisting of a President; two whole-time members; and four part-time members to be appointed by the Central Government.

4. Sub-clause (1) of clause 28 of the Bill provides for appointment of an Executive Director to be appointed by the Board. Sub-clause (2) thereof provides for appointment of other officers and employees by the Board with the previous approval of the Commission. Sub-clause (4) thereof provides that the salaries and allowances payable to, and the other terms and conditions of service of the other officers and employees of the Board shall be such as may be specified by regulations made by the Commission.

5. Clause 34 of the Bill provides for constitution of a Committee to be known as the National Evaluation and Assessment Committee consisting of a President; two whole-time members; and four part-time members to be appointed by the Central Government. Sub-clause (3) of clause 36 provides that the salary and allowances payable to and other terms and conditions of service of the President and other members of the Committee shall be such as may be specified by regulation made by the Commission.

6. Sub-clause (1) of clause 39 of the Bill provides for appointment of an Executive Director to the National Evaluation and Assessment Committee by the Central Government. Sub-clause (2) thereof provides for appointment of other officers and employees by the Committee with the previous approval of the Central Government. Sub-clause (3) provides that the salaries and allowances payable to, and the other terms and conditions of service of the Executive Director and other officers and employees of the Committee shall be such as may be specified by regulations made by the Commission.

7. Sub-clause (1) of clause 41 read with the First Schedule provides for constitution of new National Councils, namely, the Medical Council of India for medicine; the Dental Council of India for dentistry; the Nursing Council of India for nursing; and the Pharmacy Council of India for pharmacy. Sub-clause (2) thereof provides for constitution of the Paramedical Council of India for the disciplines of paramedics. Sub-clause (1) of clause 46 provides for composition of National Councils.

8. Sub-clause (1) of clause 52 of the Bill provides for appointment of a Registrar to every National Council by the Central Government. Sub-clause (2) thereof provides for appointment of other officers and employees by the National Council with the prior approval of the Central Government. Sub-clause (3) provides that salaries and allowances payable to, and the other terms and conditions of service of the other officers and employees of the National Council shall be such as may be specified by regulations made by the National Council.

9. Sub-clause (1) of clause 53 of the Bill provides for constitution of State Medical Council for medicine; the Dental Council for dentistry; the Nursing Council of the State for nursing; the Pharmacy Council for pharmacy; and the Paramedical Council of for paramedics.

10. Clause 75 of the Bill provides that the Central Government may, after due appropriation made by Parliament by law in this behalf, make to the Commission grants of such sums of money as the Central Government may think fit, for being utilised for the purposes of this Act. Sub-clause (1) of clause 76 provides for constitution of a fund to be called the National Commission for Human Resource for Health Fund in which all Government grants, fees and charges received by the Commission; and all sums received by the Commission shall be credited.

11. It is estimated that there would be an expenditure of approximately forty crore of rupees. Out of this, an amount of thirty-nine crore of rupees would be towards recurring expenditure and one crore of rupees would be towards non-recurring expenditure.

12. The Bill does not envisage any other expenditure of recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 111 of the Bill confers power upon the Central Government to make rules for carrying out the purposes of the Bill. The matters with respect to which rules may be made has been set out in sub-clause (2). The matters, *inter alia*, relate to (a) the manner of appointment of the Selection Committee under sub-section (1) of section 5; (b) the term of the Selection Committee under sub-section (3) of section 5; (c) the salary and allowances payable to and other terms and conditions of the Chairperson and other members under sub-section (3) of section 6; (d) the salary and allowances and other terms and conditions of service the Chief Executive Officer and other officers and employees of the Commission under sub-section (4) of section 15; (e) such other functions to be performed by the Commission under clause (p) of sub-section (2) of section 16; (f) any other factors to be considered by the Committee and the Commission while passing an order for approving or disapproving the scheme under clause (g) of sub-section (8) of section 17; (g) the manner of appointment of the chairperson and members of the Selection Committee under sub-section (1) and their term under sub-section (4) of section 25; (h) the salary and allowances payable to and other terms and conditions of service of the President and other members of the Board under sub-section (3) of section 27; (i) such other functions to be performed by the Board under clause (ze) of sub-section (2) of section 30; (j) the number of persons to be appointed and the qualifications and experience of the audit committee under sub-section (1) of section 38; (k) the procedure and the manner in which the National Councils are to be constituted under sub-section (1) of section 47; (l) the manner of conducting elections under sub-section (4) of section 47; (m) the manner of elections of the President and Vice-President of each National Council under section 48; (n) such other functions which the National Council may perform under clause (g) of sub-section (2) of section 51; (o) the manner in which the National Register shall be maintained under sub-section (1) of section 58; (p) the manner in which the State Register shall be maintained under sub-section (2) of section 58; (q) the manner in which a separate National Register shall be maintained under sub-section (3) of section 58; (r) the data capturing method by which the National Councils shall maintain the register under sub-section (4) of section 57; (s) the manner in which the National Council shall update and publish the Register under sub-section (5) of section 58; (t) such other purposes for which the National Register may be used under sub-section (7) of section 58; (u) the manner in which an application may be made for entry of additional qualifications under section 66; (v) the composition of and the procedure to be followed by the ethics committee and the ethics appellate committee and terms and conditions of such members under sub-section (4) of section 70; (w) the form in which an annual statement of accounts shall be maintained under sub-section (1) of section 76; (x) the time and the form in which an annual report shall be furnished under sub-section (1) of section 78; (y) the period within which appeal may be preferred to the Central Government under sub-section (1) of section 99; (z) the form of application and the fees to be paid under sub-section (3), and the procedure for disposing of an appeal under sub-section (4) of section 99;

2. Clause 112 of the Bill confers power upon the National Commission for Human Resources for Health to make regulations consistent with the Act and the rules made thereunder to carry out the purposes of the Act. The matters with respect to which regulations may be made has been set out in sub-clause (2). The matters, *inter alia*, relate to (a) the conduct of business at the meetings of the Commission under sub-section (5) of section 13; (b) the functions to be discharged by the Chief Executive officer under sub-section (2) of section 15; (c) the continuous medical education and the courses workshops and training activities under clause (1) and such other functions under clause (p) of sub-section (2) of section 16; (d) the form, particulars and manner in which the scheme shall be made and the fees for submission of the scheme under sub-section (3) of section 17; (e) other functions in respect of which fees and charges may be levied under section 22; (f) the salaries and allowances payable to, and other terms and conditions of service of the other officers and employees of the Board under sub-section (4) of section 28; (g) the manner of conducting examination for entry to graduate, post graduate, doctoral, post doctoral, super speciality or

diploma courses and fellowship examination by the Board under sub-section (1) of section 31; (h) the salary and allowances payable to and other terms and conditions of service of the President and other members of the Committee under sub-section (3) of section 36; (i) the qualifications and experience of, and the manner of evaluation and assessment of health educational institutions by, the evaluation and assessment agencies under sub-section (5) of section 37; (j) the salary and allowances payable to and other terms and conditions of service of the Executive Director and other officers and employees of the Committee under sub-section (3) of section 39; (k) the fees and the conditions for re-entry of name of the person under sub-section (2) of section 59; (l) the period of suspension of the right of person to participate in elections to council under sub-section (2) of section 62; (m) the circumstances and manner of removal of name of any person enrolled by the National Council, or as the case may be, the State Council under sub-section (1) of section 71; (n) the manner of filing a complaint with the State Council under sub-section (1) of section 72; (o) the period for which the Board, Committee, National Council or State Council may engaged committees or experts, the qualifications of such experts and the fees and remunerations to be paid under sub-section (2) of section 95; (p) the books of accounts and other documents to be maintained by health educational institutions under sub-section (4) of section 103; (q) any other matter for which provision may be made by regulations by the Commission under this Act.

3. Clause 113 of the Bill confers power upon the State Government to make rules for carrying out the purposes of the Bill. The matters with respect to which rules may be made has been set out in sub-clause (2). The matters, *inter alia*, relate to (a) the manner in which the State Councils are to be constituted and its composition under sub-section (1) of section 53; (b) the period of State Council to continue under sub-section (5) of section 53; (c) the manner of election of the President and Vice-President of the State Council to be elected by the members under sub-section (1) of section 54; (d) manner of enrolment of persons under sub-section (2) of section 57; (e) the data capturing method by which the State Councils shall maintain the register under sub-section (4) of section 57; (f) the manner in which the State Council shall update and publish the Register under sub-section (5) of section 58; (h) any other matter for which provision may be made by rules by the State Government under this Act.

4. Sub-clause (1) of clause 114 of the Bill requires that the rules and regulations made under the proposed legislation shall have to be laid before Parliament. Similarly, sub-clause (2) of the said clause requires that the rules made by the State Government under the proposed legislation shall have to be laid before the State legislature.

5. The matters in respect of which the rules and regulations may be made are generally matters of procedure and administrative detail and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

V.K. AGNIHOTRI,
Secretary-General.